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JUSTICE ROBERT H. JACKSON
Prosecutor of War Criminals

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The Judge Advocate Journal is not an organ of the War Department. The views expressed in the Journal are those of the author of each article primarily. It is the policy of the Journal to print articles on subjects of interest to officers in the Judge Advocate General's Department in order to stimulate thought and promote discussion; this policy will be carried out even though some of the opinions advanced may be at variance with those held by the Officers and Directors of the Judge Advocates Association and the Editors.

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THE *General's* PAGE



IT is only natural that with the advent of peace on one front many officers should ask what V-E Day means to the Department and to them. I know that many of the Reserve and AUS officers in the Corps have private law practices to which they intend to return. I know, too, that it will be of great value to those who do intend to return to private practice to have as much definite information as possible to assist them in making their plans. I want to say that, so far as it lies within my power, that information shall be made available as expeditiously as possible in every instance.

You will realize that we cannot at this time predict what the full impact of V-E Day will be on the Department. However, we can take stock of some of the matters which will affect the situation. The number of both military justice matters and claims, based upon the experience of the last war, will mount as a result of the ending of hostilities in Europe. The investigation of war crimes and the preparation of cases against those accused of atrocities and violations of the rules of warfare will create a volume of work which will tax to the utmost the capacity of our National War Crimes Office.

R-Day brings the greatest military redeployment operation ever planned. The transfer of millions of fighters and millions of tons of supplies and equipment half way around the world will create new and varied problems peculiar to the changed situation which now confronts us. These problems will increase the duties of the Department to a substantial degree. Of course, the occupation of Germany will make many demands upon us.

The Redeployment Regulations which have been announced operate in substance as follows:

The adjusted service rating score is not the controlling factor in the case of officers. However, it will be given consideration as an aid and guide in reaching a decision, especially in the case of officers with lengthy service overseas and long and hazardous service in combat. Military necessity is the controlling factor with respect to the release of officers. Judge Advocates "surplus" to a command will be reported to the War Department where a determination of "essentiality" will be made by The Judge Advocate General. If the officer is both "surplus" and "non-essential" he will be separated from the service. If the officer is determined to be "essential" he will be reassigned to a position appropriate to his rank and qualifications.

The Redeployment Regulations do not supersede those regulations which provide for release from service in cases of undue hardship or cases where the release is in the interest of national health, welfare or safety. These regulations remain unchanged.

To summarize, any officer of our Corps to be released under the Redeployment Regulations as they are now written must be determined to be: 1) surplus by the major command having assignment jurisdiction over him and 2) non-essential to the war effort by The Judge Advocate General. The work load being what it is and the need for lawyers being so great, it will be necessary for me to deny the applications of many officers who desire separation from the service. They must necessarily be retained in the service until such time as the work load decreases or replacements are at hand.

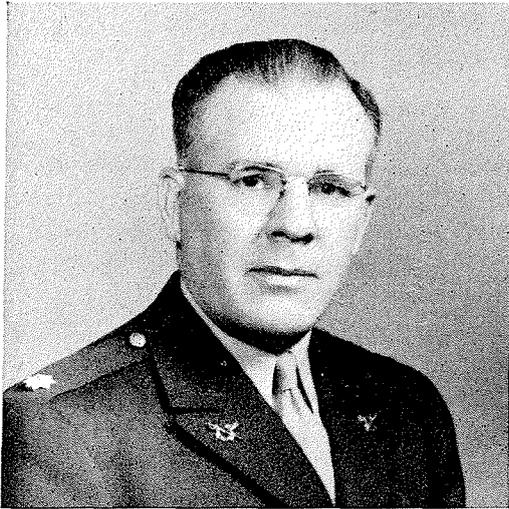
I might sum up the entire situation by repeating what I said to the most recent graduating classes at The Judge Advocate General's School:

"The work and responsibilities of the Judge Advocate General's Department have been constantly increasing. Unconditional surrender in Europe means no recession in our labors. On the contrary, we have a bigger job than ever to perform and we shall need even more judge advocates to do it adequately."

MYRON C. CRAMER,

Major General,

The Judge Advocate General



THE *President* SAYS—

IN spite of all the care that we use in trying to keep our mailing list up to date, we find that in many cases our best source of information is from two to four months behind the change of station orders.

We have over 1800 members and the clerical work of keeping our list current is a real problem. This, plus the fact that second-class mail for overseas has a low priority, has resulted in the non-delivery of Journals to many of our members stationed overseas. We have consulted officials of the War and Post Office Departments but we are now convinced that there is nothing that we can do to improve the situation. If each member would cooperate by mailing in his address as soon as his station is changed it would help in large measure to reduce a part of our burden in this regard. I feel that we have the right to ask for this cooperation because I am in a position to see the extraordinary efforts put forth by volunteers who help us in carrying out the work of the Association. They can easily be discouraged if they see no evidence of a desire on the part of the members to be helpful in our efforts to keep this Association as a going concern during these difficult days.

The annual dues of the Association for 1945 became payable on 1 January 1945. The by-laws provide that if any member fails to pay his dues within ninety days from the date they become due, he may be dropped from the membership rolls by the Board of Directors. It is further provided that a former member who has been dropped from the rolls may within the discretion of the Board of Directors be reinstated upon full payment of his back dues. (Sec. 4, Art. XI.)

Although notices that 1945 dues became payable on 1 January 1945 were sent out last November, many members, due to the vagaries of the mails, failed to receive them. Consequently, this must serve as a further—and last—notice to all members whose 1945 dues have not been received as of this date. No action will be taken by the Board of Directors as to members now in default until such time as action pursuant to this notice could reasonably be expected.

The annual dues are \$5.00. By an amendment to the by-laws on 1 July 1944 it was provided that thereafter

initial dues to the Association would be determined according to the quarter of the year in which an applicant was accepted for membership. Those accepted during the first quarter would pay \$5.00; during the second, \$4.00; during the third, \$3.00; and during the fourth, \$2.00. Therefore, those members who were accepted after 1 July 1944 and who remitted \$5.00 with their application are entitled to a credit which may be deducted from their 1945 dues. Those who were accepted between 1 July and 30 September 1944 and paid \$5.00, may deduct \$2.00 from their 1945 dues, and those who were accepted in 1944 after 30 September and paid \$5.00 are entitled to deduct \$3.00 from their 1945 dues.

After you have gone through this mathematical maze, it is hoped you will come up with the right amount and send it along to the Judge Advocates Association, c/o Lt. Col. Lee H. Cope, Treasurer, Room 2712, Munitions Building, Washington 25, D. C.

The failure of our members while on foreign duty to receive copies of the Journal has been a matter of considerable concern to our Board of Directors. I am glad to report that, in an attempt to reach an equitable solution, a resolution has been adopted providing that any member who shall attach a certificate, at the time of paying dues, that he has failed to receive during the preceding year one or more copies of the Journal, may take a credit of \$1.00 for each copy certified as not being received by him during his overseas service.

I have appointed Colonel William J. Hughes, Jr. and Major Samuel F. Beach as a committee to draft proposed amendments to the by-laws pertaining to the procedures for holding elections for officers and directors of the association. It can be expected that whatever amendments are finally adopted by the Board of Directors in this respect will establish a more workable and satisfactory method of electing our officers and directors in future elections.

HOWARD A. BRUNDAGE,

COLONEL, JAGD,

President,

Judge Advocates Association.

Robert H. Jackson

U. S. PROSECUTOR OF MAJOR WAR CRIMINALS

WHEN the President designated Associate Justice Robert H. Jackson as the "United States representative and Chief of Counsel" for the prosecution of the major European Axis war criminals, the title was more than appropriate, for Robert H. Jackson is probably as representative of the United States and of its legal profession as anyone who might have been named. He knows life in rural America, life along Main Street, and life in the bustling capital of the United States.

He is as well qualified as anyone to speak America's mind in the International Military Tribunal which will hear the case against those who engineered and carried out the Nazi crime of waging a ruthless war of aggression. What kind of a man is the United States prosecutor? To answer this one must trace his varied and eventful life.

He was born on a farm in Spring Creek Township, Warren County, Pennsylvania, and the early part of his life was spent almost entirely in rural surroundings. His grandfather had cleared the little farm where Robert Jackson was born. In fact, this same grandfather had founded the first white settlement in Spring Creek Township, following a migration from Litchfield, Connecticut. His great-grandfather on the maternal side was the grandson of George F. Eldred, the younger son of a British barrister.

Young Robert Jackson moved, when he was about 10 years of age, to Frewsburg, New York. He attended grammar school there, and high school in Frewsburg and nearby Jamestown. In both schools he was active in debate. From early youth he intended to become a lawyer and he missed little time in getting into the profession. Without the benefit of a college education, he attended Albany Law School for one year and was admitted to the New York bar in 1913. Even before that he had tried his first cases in the Justice of the Peace court.

It is significant that from the time that he first entered the legal profession Robert Jackson never departed in the slightest from legal activity. True, he served at various times in many positions of public trust, but each called for the talents of a lawyer—a highly trained and skillful lawyer. It is doubtful whether he ever considered departing from the profession. Lawyers frequently, during the course of their careers, conjure doubts whether the profession holds for them the most opportunity and the most satisfaction. It is doubtful whether Justice Jackson ever entertained such doubts. The law has been for him a road of adventure and accomplishment. As a traveller upon that road he has, however, taken time out to make repairs in the road's surface and to suggest methods by which it could be converted into a modern highway serving all the people. It is his very love for the law that makes him impatient with those who would not have it grow—and develop—and serve. In speaking of the forthcoming trials of the leading Nazis he said: "Our people have been waiting for these trials in the spirit of Woodrow Wilson who hoped to 'give to International Law the kind of vitality which it can only have if it is a real expression of our moral judgment.'"

In his recent report to the President he stated "International Law is more than a scholarly collection of ab-

stract and immutable principles . . . it grows, as did the common law, through decisions reached from time to time in adapting settled principles to new situations. Hence, I am not disturbed by the lack of precedent for the inquiry we propose to conduct."

Justice Jackson has given much thought to the role which International Law must play in a modern world. His concepts, however, are not those of one who speaks from the cloistered halls of the University. His whole approach to the terrific task which lies ahead in the prosecution of these cases can only be understood when studied against the varied legal background which has been his.

In Jamestown he engaged in a general practice of the law. He represented nearly every type of business enterprise including utilities, banks, insurance and manufacturing companies. He served in 1918 as the Corporation Counsel of Jamestown, New York. His general practice brought him frequently into the trial courts and the appellate courts of New York state. In 1930 he served under appointment from the Governor as a member on the Commission to investigate administration of justice in the state of New York. In 1933 he was appointed Director of the New York Emergency Scrip Corporation. The most active portion of his legal career, however, commenced in 1934 when he was appointed General Counsel of the Bureau of Internal Revenue. In the following year he was named as Special Counsel to the Securities and Exchange Commission for the handling of special litigation. In 1936 he became a member of the "Little Cabinet" when he was named Assistant Attorney General in charge of the Tax Division of the Department of Justice. A year later he was appointed Assistant Attorney General in charge of the Anti-trust Division of the Department. In 1938 he was appointed by the President to the position of Solicitor-General of the United States and the following year Attorney-General of the United States. He took the oath as Associate Justice of the United States Supreme Court in July 1941. Thus, in the brief span of seven years he held seven of the highest legal posts in the Federal Government. As Solicitor-General he had a particularly impressive record from the standpoint of number of cases argued before the United States Supreme Court and the results in those cases. He personally argued twenty-four cases during the term of the United States Supreme Court which began in October, 1938, and ended in May, 1939—winning twenty-one of the twenty-four cases before the Tribunal. Only one of these cases was eventually lost by the Government. The court records indicate that Mr. Jackson argued in the Supreme Court more cases involving the question of constitutionality than any lawyer before him whether in public or in private practice.

Behind the lawyer, the judge, and the public servant there is the man. His home means much to him. In April 1916 he married Irene Gerhardt. They have a son, William Eldred, now in the U. S. Navy, and a daughter, Mary Margaret. Both are married. The Justice and Mrs. Jackson live in a white brick home situated on a five acre estate near McLean, Virginia. The house is on a knoll and from it lead bridle paths along which the Justice takes daily horseback rides before

going to the Supreme Court. There is a garden, too, and until his recent appointment as U. S. Chief of Counsel, he was frequently to be found there with spade, hoe, and trowel. He is proud of his garden and has won the battle, fought by all gardeners, over weed and bug. While the Jacksons are newcomers to McLean they already are a real part of the community, attend the local social gatherings, and occasionally, the local church. After all, it isn't too different from life on the farm outside of Jamestown in earlier days. Robert Jackson likes people—not as the politician who sees in each two legged creature a vote—but he just likes people and people like him. He has no affectation. There are those who ride horses because it is the thing to do. He rides because he likes horses and has ridden since he was a child. As one writer said recently, "He likes horses without being horsey."

He brings that freshness of the countryside across the river with him when he drives to his work at the Court. The bridle path, the garden, the hearth fire in the living room, the best thoughts from the books in his large library—all these are reflected in the man; and they have a bearing on what he says and writes and how he adjudicates. He is quick at repartee and his observations in casual conversation and even in judicial opinions are flavored by a certain "cracker barrel" type of horse sense.

Many people know him as "Bob" who would not call

him "Bob." Although easy in manner he possesses a natural dignity that makes familiarity difficult. He is the sort of person you want to slap on the back in a gesture of approbation—but you don't.

The people of the United States can rest assured that when, in the trials that lie ahead, he speaks as the U. S. representative, he will be truly "representative."

Mr. Jackson chose the meeting of the International American Bar Association in Havana, Cuba in 1940 as the occasion on which to develop in some detail his conviction that International Law had in fact grown far beyond where many text writers on the subject would have written "finis." In that address, he elaborated the point that the Kellogg-Briand pact and numerous other expressions of the sovereign powers of the world, when taken together, constituted a juridical principle that waging of aggressive war is illegal. This contention is the cornerstone of the U. S. theory of prosecution in the cases which he will try.

The prosecution of the case against the major criminals presents problems which will call for ingenuity, imagination, boldness and a high degree of adaptability to unprecedented situations. It will call for the talents of the trial lawyer and the diplomat. But in this task, Justice Robert Jackson can summon from a long and distinguished life of legal service the experience and the personal qualities necessary to the task.

GENERAL WEIR CONFERS WITH WAR CRIMES PROSECUTORS IN ENGLAND AND FRANCE

BRIGADIER General John M. Weir, Assistant Judge Advocate General and Director of the United States War Crimes Office returned in May to Washington after spending six weeks in Europe discussing plans for the prosecution of Axis war criminals with leaders in the British and French governments. While in London, General Weir attended several meetings of the United Nations War Crimes Commission, whose United States Representative is Lt. Colonel Joseph V. Hodgson, JAGD.

General Weir was designated the War Department representative to accompany a special committee of Congress invited to Europe by General Dwight D. Eisenhower to inspect the German concentration camps and prison camps. The Committee, headed by Senator Alben W. Barkley, included Senators Elbert D. Thomas, C. Wayland Brooks, Kenneth S. Wherry, Walter F. George and Leverett Saltonstall and Representatives R. Ewing Thomson, James P. Richards, Edward V. Izac, James W. Mott, Dewey Short and John M. Vorys.

Among other points visited in Germany with the Congressional Committee were the atrocity camps at Dachau, Nordhausen, and Buchenwald. The party met with General Dwight D. Eisenhower, General Omar Bradley, General Jacob L. Devers, and other leading Allied military commanders at their headquarters in Germany.

Numerous conferences about war crimes matters were had by General Weir with Lord Simon, Lord Chancellor of England, Professor Rene Cassin, head of the French National War Crimes Office, Minister of Justice Menthon of France, Brigadier General Edward C. Betts, Judge Advocate of the European Theater of Operations, Lord Wright, Chairman of the United Nations War Crimes Commission, and other members of the Commission.



Congressional group gets first hand view of filthy living quarters in the Nazi concentration camp of Buchenwald, near Weimar, Germany. 18 prisoners were crowded into each three-tier section. (L. to R.) Rep. John M. Vorys, Ohio; Brig. Gen. John M. Weir, War Dept. representative; Col. William E. Williams, 120th Evac. Hosp.; Sen. Alben W. Barkley, Ky.; Sen. C. Wayland Brooks, Illinois; and Sen. Leverett Saltonstall, Mass.

General Weir also conferred with Colonel Charles Fairman, JAGD, Colonel John A. Hall, JAGD, Lt. Colonel Leon Jaworsky, JAGD, Colonel C. B. Mickelwait, JAGD, Colonel D. S. McLean, JAGD, and other officers of the Judge Advocate General's Department about war crimes matters.

EQUALIZATION OF *Court-Martial Sentences*

By MAJOR GENERAL MYRON C. CRAMER, THE JUDGE ADVOCATE GENERAL

An Address Delivered at The Judge Advocate General's Conference, Ann Arbor, Michigan, 22 May 1945

ONE of the most important problems confronting the War Department and The Judge Advocate General's Office is the imposition of equal and fair sentences upon those convicted of similar offenses by courts-martial. The question is one of comparative justice. We cannot permit one accused to be sentenced to six months for ten days AWOL in one jurisdiction and another accused to have confinement of five years imposed upon him for the same period of AWOL under the same circumstances in another jurisdiction. Now this problem is not only my problem and the problem of the War Department, it is primarily your problem. It is your problem because you, as staff judge advocates, can do more to see that appropriate and just sentences are imposed in the first instance, or corrected by the reviewing authority, than any other officers in our Army. It concerns you, and the officers exercising courts-martial jurisdiction whom you represent, because you and they will be judged not only by the fairness and legality of your trials, but upon the equality with which you administer justice between different persons convicted of substantially the same offenses.

How can the War Department insure that a man convicted of an offense in New York receives substantially the same sentence as a soldier convicted in California of a similar offense under practically the same circumstances? The answer is not as difficult as it seems. In the first place, members of the court should be instructed that the sentence imposed for an offense must be reasonable in light of all the circumstances. Let me illustrate. In a recent case passing through my office a soldier, eighteen years of age, in the fifth week of his basic training in this country, was convicted of wilful disobedience of the lawful command of his superior officer. He was sentenced to confinement for 55 years. Let me read you what I wrote to the Commanding General exercising general court-martial jurisdiction over that command:

"For the penalty of wilful disobedience of a lawful command of his superior officer, he was sentenced by a general court-martial, composed of 1 colonel, 2 lieutenant colonels and 5 majors, to dishonorable discharge, total forfeitures and confinement at hard labor for 55 years. The members of the trial court not only deliberately disregarded the specific provisions of the War Department policy with respect to uniformity of sentences published generally to the army on March 5, 1943, but they displayed a complete disregard of good judgment and common sense in imposing such an excessive sentence of confinement. Sentences of this nature imposed on a very young soldier who is not in the presence of the enemy, but in a training camp in this country, not only stir up the enmity of other soldiers in the same command, but subject the entire court-martial system of the army to the indignant and justifiable criticism of Congress and public opinion. The officers who composed the court and who imposed this sentence should be instructed in the matter of the appropriateness and adequacy of the sentences which they vote to impose, and whether or not it is justified by the necessities of justice and military discipline."

How can the sentence in the above mentioned case be defended, especially in view of the age of the accused and the short period of his service? You can see for yourselves that the best way that this court could be sure that the sentence would be reasonably equal to sentences in other commands would be to impose a fair and just sentence in the first instance.

All of this brings up another point. You are familiar with the War Department policy of uniformity of sentences. I want to emphasize that this policy applies to courts when they are imposing sentences as well as to reviewing authorities when they are reviewing the sentence. The theory that a court-martial should impose the maximum punishment and leave it to the reviewing authority to reduce the sentence is all wrong and contrary to the plain provisions of paragraph 80, p. 67, of the Manual for Courts-Martial which provides that the sentences initially shall be legal, appropriate and adequate. To be sure, the initial sentence should be adequate to meet the needs of the military situation, but that does not mean that the confinement should be excessive and out of all proportion to the needs of military discipline. This procedure is a form of avoiding responsibility because it is so much easier for a court to impose the maximum and then let the reviewing authority worry about reducing the sentence. The solution to this problem is: (1) proper instruction of the members of the court and (2) selection of competent, level headed, sensible officers as members of the court. It is at this stage that the staff judge advocate plays an important role. It is up to him, first of all, to impress upon his commanding general, the convening authority, the fact that the members of the courts-martial are his appointees and that he rather than they will be held responsible by public opinion for excessive sentences, even though he may, acting as reviewing authority, cut the sentence down. The staff judge advocate should emphasize that excessive sentences have in fact no deterrent effect upon the discipline of our present Army, but only cause a dangerous resentment and outrage the sense of justice and decency of our citizen-soldiers, their families and friends. Soon these same soldiers will become civilians and their judgment of military justice will, for the greater part, be formed by what they actually have seen in the field. Furthermore, when this type of excessive sentence is imposed, it increases the already overburdened higher echelons who must exercise the clemency functions that could well have been considered when the sentence was imposed in the first instance. The staff judge advocate should see to it not only that competent officers are selected for detail to a court-martial but that they are instructed in their duties. The prime importance of the policy of the War Department as to uniformity of sentences should be impressed on every member of the court. If this procedure is followed, and fair and reasonable sentences are imposed in the first

instance many, if not most, of our problems as to the equalization of sentences will disappear.

The reviewing authority, of course, has an all important place in the problem of equalizing sentences. In the first place, he should carefully consider whether the case should be sent to a court at all. This is a problem that is too often resolved, when there is any doubt, by directing that the accused should be tried by a general court. Here again the function of the staff judge advocate is of prime importance. His recommendation to his commanding general should be factually correct and restrained in tone. If this job is properly done and the picture of the case is properly presented to the commanding general, in most instances the problem of equalization of sentences disappears because the case may well be handled adequately by inferior courts. I recognize that many commanding generals have definite ideas of their own as to discipline, sentences and related matters. If their ideas should be contrary to those of the War Department, the function of the staff judge advocate is one of education and if properly done will be effective in the long run. I mention this matter because it has a direct relation to sentences and their equalization. If the problem is met and solved in the field, it ends there.

There is also the further question of how the reviewing authority should act on sentences when he reviews the case. Again, the staff judge advocate is the key to the situation. Many of the reviews of staff judge advocates coming through my office contain no reference to appropriate War Department policy as to the length of sentences and no recommendations as to whether the dishonorable discharge should be executed or suspended. This deficiency discloses that the reviewing authorities, busy men that they are, have not been properly advised when they act on sentences. This is an important matter and every staff judge advocate owes it to his commanding officer to fully inform him of current policy. I consider it one of the most important duties of my office and the duty of every staff judge advocate to maintain uniformity in the punishment imposed.

You may well ask—what does the Judge Advocate General's Office do about the equalization of sentences? We, of course, come in at the tail end of the matter and many times, I might add, we have "the bear by the tail." If we do believe that the sentence is excessive, we recommend by indorsement to the reviewing authority that the sentence be cut down and in the normal situation the reviewing authority usually follows our advice. What we do is merely to recommend on the basis of well established War Department policies, familiar to all of us, and we are applying nothing that is new. Of course, we cannot command compliance and if the reviewing authority wishes to remain adamant there is nothing that we can do about it at the moment. But the application of this power of recommendation often causes us and the War Department much embarrassment. I believe that most of you remember the recent "Weber" case where the so-called conscientious objector received a death sentence (later reduced to life by the court on revision proceedings) for refusing to drill as ordered. The settled punishment for this type of case was five years and was known to the field. Why was this policy not followed in the first instance? The reviewing authority cut the sentence to twenty years. When the case was reviewed in my office, I recommended, in accordance with well estab-

lished policy, that the sentence be cut to five years and this recommendation was followed. Now what was the net effect of this case? Had the case come up through channels without the attendant publicity, it would have received the same attention and we would have made the same recommendation. Indeed we have made many identical recommendations in similar cases. In this case, however, many people have the idea that the only reason that the sentence was reduced was because of the newspaper publicity. All of this could have been avoided if the court in the first instance, and secondly the reviewing authority, had followed the policy laid down by the War Department in determining the appropriate sentence. Had that been done, the distrust and suspicion that this case provoked would have been avoided. I mention this only to illustrate the trouble that arises when there is a departure from the announced policy of uniformity of sentences without accompanying circumstances to justify such a departure.

I cannot emphasize too strongly that if War Department policies are followed in the first instance, we will avoid any doubt that our system of military justice is fair. We equalize these sentences in the long run; why not avoid this problem by seeing to it that reasonable sentences are imposed in the first instance?

All of this leads to the next question. What happens if the reviewing authority refuses to go along with our policy? We take care of that situation by recommending to the Under Secretary of War, through Colonel Rushton, Chief, Correction Division, Adjutant General's Office, that he remit the excessive portion of the confinement immediately or upon first consideration for clemency, which occurs six months after the confinement begins. I might add that Colonel Rushton and our office act hand in hand in these matters. However, if our courts and reviewing authorities would handle this matter properly, we in Washington would not be placed in the position of later having to explain to the public sentences that are way out of proportion to the offense committed.

To summarize, the War Department does equalize sentences and if you as staff judge advocates can sell this idea to the courts and the reviewing authorities by instruction and advice, you alleviate unnecessary criticism which only provokes unwarranted attacks upon our system of military justice.

Another matter to be considered in connection with the problem of equalization of sentences, and this is of prime importance, is the equalization of sentences between officers and enlisted men. No sufficient reason exists for imposing a shorter term of confinement upon an officer than upon an enlisted man, if guilty of a similar offense. Every effort should be made to insure equality of treatment in this respect.

Before I finish I want to take up one more topic which is closely related to the equalization of sentences. With the completion of the war in Europe, we shall have many soldiers convicted of offenses upon their return to this country. Many of them will have fine combat records. In evaluating whether you should refer a case to trial and in determining the appropriateness of a sentence, the combat record of a soldier should be considered. He has, as it were, a bank account upon which he can draw which he has built up by his own deeds of valor and it should be given considerable weight in any final decision

on a case. This is another of our more important problems and one which we will have to meet more and more frequently in the future.

I fully realize that the question of a reasonable sentence in many instances requires the wisdom of a Solomon

and I am not unmindful of your difficulties in this matter. I feel assured, however, that if by instruction and advice you place before your courts and commanding generals the complete picture of the requirements of the uniformity of sentences, our problems will be solved.

TWO SIXTH SERVICE COMMAND JA'S *Leave Service*

By CAPT. BRYAN H. JACQUES, JAGD.

TWO Assistant Staff Judge Advocates of the Sixth Service Command have left the service in recent months. Lt. Col. Daniel J. McKenna was placed on terminal leave following hospitalization and treatment for an illness originally contracted while serving overseas and Major George H. Leonard, Jr., was returned to an inactive status to assume a post as a Superior Court Judge in Indiana.

Colonel McKenna is presently at his home in Maumee, Ohio, preparing to resume his post as Dean of the University of Detroit Law School. Major Leonard has already taken up his duties as judge.

Colonel McKenna was graduated from St. Johns College, Toledo, Ohio, and Harvard Law School. He practiced in Toledo for a number of years, subsequently serving on the faculties of the law schools of Marquette University, Milwaukee, Wisconsin, and De Paul University, Chicago. He became Dean of the University of Detroit School of Law in 1932. In 1935 he accepted a commission in the JAGD-Reserve and entered upon active duty in October 1941. He was first assigned to Headquarters Sixth Corps Area at Chicago but in the summer of 1942 was transferred to the Island of Tongatabu where he succeeded Major Justin MacElroy, presently teaching at the JAG School at Ann Arbor.

Colonel McKenna remained in the Pacific for about a year and as a result can narrate most interesting tales relative to his operations there as a JAG officer. His duties were exceptionally varied but he managed to surmount all the difficulties resulting from dealing with the natives of that colony. While thus on duty he suffered an attack of illness, returned to the United States and was assigned to the office of the Staff Judge Advocate, Sixth Service Command, Chicago, where he was made Chief of the Military Justice Branch, which post he continued to fill until being placed on terminal leave.

Colonel McKenna's reputation as a lawyer and a Judge Advocate is well known throughout the entire department. Because of his knowledge and experience acquired both as a practitioner and as a professor his judgment and opinions were eagerly sought by all of his associates who had complete respect for his decisions.

Colonel McKenna did not confine his abilities to the field of the law. He is a finished musician, having played in outstanding symphony orchestras in various cities of the United States. In addition, he seems to have acquired, in some manner or other, a rather comprehensive knowledge in the field of radio and electrical engineering. During his recent tour of hospitalization at Gardiner General Hospital in Chicago, he not only had numerous visitors among his fellow patients who sought expert knowledge on matters pertaining to the legal aspect of

military matters, but was also kept busy repairing the dilapidated radios of antique vintage being used by the various patients. To the foregoing, Colonel McKenna adds an unusual skill in the realm of prestidigitation enabling him to perform sleight of hand tricks with a dexterity equal to that of the best of professional performers.

Major Leonard entered upon active duty as a Captain in May 1942 and was promoted to Major in June 1943. After attending the Second Officers Class of the Judge Advocate General's School, he was assigned to the Staff Judge Advocate's Office, Sixth Service Command, where he served until reverting to inactive status.

Initially Major Leonard was assigned to the Military Justice Branch, becoming Chief of that Branch when Colonel McKenna was ordered overseas. Later he was appointed Chief of the Military and Civilian Affairs Branch, serving in that capacity until his relief from active duty.

Major Leonard had extensive experience in matters involving military aid to the civil authorities in the turbulent Sixth Service Command where, particularly in Detroit, there were frequent disorders requiring the use of troops for police purposes. A treatise on the subject entitled "Legal Aspects of Military Aid to the Civil Power" prepared by Major Leonard was widely used and received approval from many sources.

Early in 1944 Major Leonard secured War Department permission to run for Judge of the Superior Court of Allen County, Indiana, an office which he held at the time he came on active duty. Conducting his campaign in absentia through friends on the scene, Major Leonard, who himself had to vote in both the primary and general elections by absentee ballot, led the state ticket in his county thereby bettering his record on two previous occasions when he was elected to the same office.

Major Leonard practiced law for 23 years, first in Steuben County and later in Fort Wayne, Indiana. He served as Deputy Prosecuting Attorney of Steuben County, Master in Chancery of the United States District Court for the Northern District of Indiana, Attorney for Wayne Township and Associate City Attorney for Fort Wayne.

In addition to his professional interests Major Leonard is active in civic affairs, having served as a member of the board of directors of the YMCA, of which he was Treasurer when he was called to active duty, and as a member of the board of directors of Wheatley Social Center. He is also a member of the Allen County, Indiana, and American Bar Associations.

Major Leonard resides with Mrs. Leonard and his youngest son in Fort Wayne. Their oldest son, Pfc. Robert E. Leonard, is serving overseas with the AAF.

GERMAN ADMINISTRATION OF JUSTICE UNDER

Military Occupation

By DR. RAPHAEL LEMKIN*

The Individual and the State Under German Law

THE administration of justice under German military occupation had been inspired by the basic Nazi conception of law which was bluntly expressed by Hans Frank, former Reichsminister of Justice and Governor of occupied Poland. He said, "We are proud that we have constructed our legal principles so that nothing is to be changed by war. Law is that which is useful and necessary for the German nation; that is unlawful which harms the interest of the German nation. These principles guide us in these times."¹



DR. LEMKIN

It follows, therefrom, that German law did not tend to establish a just equilibrium between the interests of the State and those of the individual, but that it subordinated completely the individual to the State machine. Courts which administer justice based upon such an interpretation of the function of law cannot concern themselves with the protection of the essential rights of the individual. This is especially apparent in the administration of German criminal justice.

Accordingly, in the judiciary systems which the Germans created in occupied countries, the rights of the defendant were insignificant. For example, no preliminary investigation was made in some cases, such as those tried before special courts or emergency courts.^{1a} Furthermore, no appeal lay from the decisions of special courts, although in some countries they were empowered to pronounce the death penalty. Notice was served on the defendant in as little time as twenty-four hours before the trial, and he could have had counsel appointed

Note on the Author

*Formerly Public Prosecutor of Warsaw, Poland, and Polish representative in the International Bureau for Unification of Criminal Law (V-Committee of the League of Nations). Taught at the universities of Warsaw; Stockholm, Sweden; Duke University, North Carolina; and in the War Department School of Military Government. Served as head consultant with the Foreign Economic Administration and is now serving as expert consultant with the Judge Advocate General's Office of the War Department. Author of numerous volumes and articles in English, Polish, French, Swedish, German and Italian on law and finance. Among his writings: *The Soviet Criminal Law* (1928), *The Italian Criminal Law* (1929), *Financial Law* (1932), *The Judge and Modern Criminal Law* (1933), *International Terrorism* (1935), *The Protection of International Peace by Criminal Law* (1937), *The Regulation of International Payments* (1939), *Exchange Control and Clearing* (1941), *Axis Rule in Occupied Europe* (1944) and many others.

Because of the magnitude of the problems involved in the administration of justice in the sixteen different areas under German occupation, this magazine article could not, in the view of the author, give an exhaustive treatment of the subject matter.

1. *Juristische Wochenschrift*, December 1939.

1a. As to Norway see order concerning procedure before the German Court of 27 August 1940.—*Verordnungsblatt* No. 3, 1940.

to defend him only if it seemed expedient.² Generally speaking, only German counsel could appear, although in exceptional cases, the German authorities permitting, members of the local bar in occupied countries could appear before German courts to defend their compatriots.

An especially severe regime as to legal recourse was established in the Ostland. According to the decree of the Reich Commissioner for the Ostland, Jews were allowed no legal recourse against the decision of a German court. Moreover, the Reich Commissioner for the Ostland could exclude at his discretion other entire groups of people from the right of legal recourse.³

The generally admitted principle that a judge of original jurisdiction cannot act as a judge in an appeal of the same case was violated by the order of July 17, 1940, whereby the judge whose order had been attacked by a motion to set it aside was not disqualified from sitting with a full court of three in deciding on such a motion.

The insecurity of the defendant was further increased by the lack of finality of the decision. According to the above-mentioned order of the Reich Commissioner of the Netherlands, the Attorney General could, within one year after a judgment of a German court, file a petition to have such judgment declared void. If the Reich Commissioner had set aside the judgment, there would not only be a trial de novo, but the court was "bound to follow" the Reich Commissioner's "mandate as to the applicable law contained in the reasons given for setting aside the original judgment."⁴ Thus, the Reich Commissioner not only supervised justice, but also directed the decisions of the courts.

Local Courts of the Occupied Countries

A distinction, broadly, can be made here between those occupied territories which were either formally or informally annexed, and those which were non-incorporated. In Poland, Austria and Luxemburg, the Supreme Courts were abolished. In incorporated western Poland, in the Belgian districts, Eupen, Malmedy and Moresnet, and in Austria, the local courts were abolished as well and we find that the local courts pronounced their sentences "in the name of the people," meaning, of course, the German people (*Im Namen des Volkes*). In non-incorporated territories, the local courts were retained, but with a limited jurisdiction, which limitations included the granting of the privilege of extraterritoriality to German inhabitants and the stringent supervision of local courts by the German authorities.^{4a}

This principle of extraterritoriality was upheld by a special provision which excluded German inhabitants of the occupied countries from the jurisdiction of the local courts. Thus, if one of the parties to an action

2. For Poland see decree concerning German jurisdiction in the Government General of 19 February 1940.—*Verordnungsblatt des Generalgouverneurs* No. 13, 1940.

3. *Verordnungsblatt* 1941, page 31.

4. *Verordnungsblatt* No. 12, 1940.

4a. See Lemkin "Axis Rule in Occupied Europe," page 35.

was either German or of undefined nationality, jurisdiction thereof was transferred to a German court. A Polish court, for example, could not even hear a German witness.

In the Ukraine the problem of organizing justice created special difficulties. The local courts (so-called "People's Courts"), based upon the principles of communistic justice, could not be used for political reasons. On the other hand, because of the fact that the communist regime had been retained by the German occupant in its essential economic features, the need for courts to deal with civil matters was not so urgent as it would be in an area with a prevailing private ownership regime. The occupant resolved the problem of civil justice in the following way: An institution of local arbitrators (*einheimische Schlichter*) was established to take care of disputes arising between members of the local population. These arbitrators were appointed by the Reich Commissioner for the Ukraine, upon the recommendation of the respective district commissioners. The decisions of the arbitrators were enforced.⁵ For criminal cases there existed German courts patterned along the same lines as those in other occupied countries.

The German authorities exercised a most stringent supervision of the local courts. While an order of the Reich Commissioner for the Netherlands, dated May 29th, 1940,⁶ declared that the judiciary is independent, yet the same decree stated that "the Reich Commissioner will determine which judgments are to be submitted for his confirmation before execution may be issued."—a limitation hardly consonant with an independent judiciary.

The prevailing uncertainty and confusion is emphasized by a decree which permitted the German authorities to withdraw any case from a Polish court and transfer it to a German court. Judgments of a Polish court could be disregarded by a German court and the case could be tried *de novo* by the German court.⁷

The Courts of the Occupant

The Occupant has introduced into the occupied countries certain new courts which may be broadly classified as follows:

1. Military Courts (*Wehrmachtsgerichte*), often referred to as "courts of the armed forces." Within their jurisdiction were found cases involving military treason, offenses relating to the activities of the army, or aimed against the German armed forces or their members. The jurisdiction of the military courts included, as well, those offenses which were committed in premises used by or for the purposes of the German armed forces.

2. Special Courts. These were organized and managed mainly by the Gestapo and S. S. and designed to meet the needs of special interests of the German State or Nazi party. They provided the most effective pseudo-legal weal for terrorism in occupied countries. Most often, their jurisdiction was not defined beforehand, their creation following specific decrees to cover specific instances, which decrees named the offense, as a rule, to be tried by the special courts. In Poland, for example, jurisdiction was placed in the special courts involving violations concerning the use of the German salute⁸ or the wearing

of the Jewish insignia. Again, in Poland, the special courts tried cases concerned with the law establishing a Bank of Issue or with decrees concerning sequestration of property.⁹ It will be noted that the jurisdiction of these special courts differed in each of the occupied countries. In Norway, for instance, the special courts tried cases involving violations of the law prohibiting political parties and violations of the prohibition against activities on behalf of the Royal House of Norway.¹⁰ In Norway, with the increased activities of the patriots, it was found necessary in 1942 to establish the S. S. and Police Court North—a special court, designed to curb the activities of the Norwegian patriots. The special courts in Luxembourg tried cases concerned with disturbance of public order, or those activities deemed politically dangerous to the occupant, such as talking to prisoners or ceasing work in disregard of German interests. It can readily be seen how effectively these special courts operated to strengthen German control over the populations of the occupied countries.

3. Emergency Courts. While their jurisdiction, as in the case of the special courts varied from country to country, their general purpose can best be defined by viewing the decree promulgated in the Netherlands wherein the jurisdiction is set forth generally as covering cases which involved intentional participation in "activities likely to disturb or to endanger public order and safety of public life" or intentional violation of "special orders of the Reich Commissioner." The penalties, on the contrary, were quite definite, in most instances being death, or in less serious cases hard labor either for life or for a period not less than ten years.¹¹ In other occupied countries, these courts tried cases of attacks made against the German administration (sometimes the German Army and the Nazi Party), or attacks made on individual Germans as such.¹² The main distinctions between a special court and an emergency court lie in their creation. The special courts were organized mainly by and for the Gestapo and S. S. and were created by special decree; whereas any court could summarily be turned into an emergency court to treat what might be deemed an emergency situation. It is to be noted that the jurisdictional lines were never clearly drawn so that a defendant called before either court could not plead the defense of lack of jurisdiction.

4. German Courts of General Jurisdiction: These courts had both civil and criminal jurisdiction. There were two kinds, German courts of original jurisdiction and German superior courts which acted, in general, as appellate courts. Criminal jurisdiction included cases involving German nationals. For example, if a German conspired with one or more of the inhabitants of an occupied country, all defendants were brought before a German court.¹² Those cases involving German interests were likewise tried by German courts, though the defendants might be non-German. German interests seemed to be an inclusive term and involved offenses committed against the Greater German Reich or the National Socialist Party, or acts against Germans or persons in the service of Germany, or offenses committed during service for German authorities or in premises used by German authorities, as well as acts of pillage. In civil

5. *Ibidem*, page 236.

6. *Verordnungsblatt* No. 1, 1940.

7. *Verordnungsblatt* No. 13, 1940.

8. *Verordnungsblatt* 1939, page 62.

9. *Verordnungsblatt* No. 6, 1940.

10. *Verordnungsblatt* No. 8, 1940.

11. *Verordnungsblatt* No. 11, 1941.

12. *Verordnungsblatt* No. 13, 1940.

cases, German courts tried all in which even one party was a German. The legal web was as frankly an expression of super nationalism as were all other devices employed by the Germans to conquer and break the spirit of the populations in occupied countries.

5. Summary Penal Jurisdiction. The German military commanders in France, the district governors in Poland and the S. S. officers in Poland could inflict penalties upon the inhabitants without judicial procedure. An appellant could appeal within twenty-four hours to the superior of the officer who had imposed the punishment.

In Yugoslavia and in Poland, military commanders and S. S. officers, respectively, could order without judicial procedure confiscations and sequestrations and without right of review for the defendant.¹³ In France, the German commanders could inflict fines up to 30,000 Reichsmarks. If such fines could not be levied, imprisonment followed up to six weeks confinement.

Law Applied

The local courts applied local law with the changes ordered by the occupant directly or through puppet regimes¹⁴ and sub-cabinet administrations¹⁵ established or controlled by the German occupant. Such changes were sometimes drastic, as, for example, the abolition in Poland of the judicial discretionary power to defer the execution of penalties involving loss of liberty or fines, or to exercise mercy in any other way, which were provided for in the Polish Criminal Code. In the Netherlands, Articles 92-98 of the Netherlands Civil Code, requiring a girl of Netherlands nationality under age to have the consent of her parents, grandparents, or local guardians to marry, were modified by the Reich Commissioner to the effect that if such person wished to marry a German, the consent of the Reich Commissioner would be sufficient.¹⁶ The Reich Commissioner thus suspended parental rights.

The German courts applied exclusively German law in criminal cases in all occupied Europe. In civil cases of annexed territories, local civil law was applied where because of limitations of time the system of German civil law had not been imposed. Where the Germans had succeeded in imposing the German civil law, that law, naturally, was applied. In the Belgian districts of Eupen, Malmédy and Moresnet, however, practically the entire body of German and Prussian law, both civil and criminal, was introduced.

Abolition of the Rule of Law

The observance of the letter and spirit of the law was not mandatory according to German conceptions. The following institutions of German law furnish an illustration:

1. The Principle of Analogy in Criminal Law. On June 28, 1935, one of the most revolutionary innovations was introduced in the German Criminal Code. Until that time the principle *NULLA POENA SINE LEGE* prevailed, namely, that no one could be punished for any act for which punishment was not prescribed by law. But from 1935 a person could be punished if the

act seemed merely analogous to any punishable act prohibited by law.¹⁷ The judges could thus expand by analogy the field of criminal law. In order to determine what was an analogous case, the German judge had to guide himself by "sound popular feeling" and by Nazi literature, especially "Mein Kampf" and the Fuhrer's speeches.

Because the principle of legality in determining offenses and criminal responsibility was destroyed, the occupant could introduce the principle of retroactivity and even punish on the presumption of future guilt, an innovation without parallel in modern law. In some instances, the occupant had ordered that penalties be imposed for acts committed before the occupation.¹⁸ In Belgium the order concerning factory trustees of April 29, 1941, was made effective retroactively as of February 1, 1941, violations of this order being punishable by fine or imprisonment.¹⁹ In Luxembourg the decree of January 15, 1941, concerning insidious attacks on the Party and the Movement (German National Movement²⁰) and providing the death penalty in serious cases, was made retroactive as of December 1, 1940.

Besides retroactivity, the presumption of future guilt mentioned above was introduced. According to the order of the Reich Commissioner for the Netherlands of July 4, 1940,²¹ penalties of confiscation could be imposed in cases where "it must be assumed" that a person will in the future further activities hostile to the German Reich and to Germany.²²

Administration of Justice Under German Occupation and International Law

The principles and techniques on which administration of justice by the German occupant was based were a violation of international law, in particular, of the Fourth Hague Convention. This applies both to the law administered and to the procedures adopted.

According to Article 43 of the Hague Convention, the occupant must respect the laws in force in the occupied country unless absolutely prevented. The words "absolutely prevented" mean exceptions based on military necessity. Thus, only by reason of military necessity can the occupant change law. The aims of German occupation were not limited to military considerations, but were directed toward the integration of the occupied countries into the New European Order under German domination. Such integration was based upon two premises: subordination of the whole life of the captive nations on one hand, and on the other hand destruction of such racial, religious, or national groups, which did not deserve even to be "subordinated" and had to disappear in

17. The German law of 28 June 1935 provides: "Any person who commits an act which the law declares to be punishable or which is deserving of penalty according to the fundamental conception of a penal law and sound popular feeling, shall be punished. If there is no penal law directly covering an act it shall be punished under the law of which the fundamental conception applies most nearly to the said act." See *Strafgesetzbuch für das Deutsche Reich*, Commentar von Adolf Schönke, second edition, Beck'sche Verlagsbuchhandlung, München und Berlin, 1944, page 21.

18. See the order of the German Military Commander in *Verordnungsblatt* No. 1, 1941.

19. *Verordnungsblatt* No. 72, 1941.

20. *Verordnungsblatt* No. 6, 1941.

21. *Verordnungsblatt* No. 9, 1940.

22. Basing penalties upon presumption of future guilt is an institution of medieval German law, especially as codified later in the *Constitutio Carolina Criminalis*. The author.

13. *Verordnungsblatt* No. 27, 1941.

14. Puppet regimes were established in Norway, Greece and Serbia.

15. Such administrations were organized in Belgium and Holland.

They consisted of Ministries headed up not by ministers, but by high ranking civil servants, holding the positions of secretaries general. See Lemkin, *ibidem* pages 11-12.

16. *Verordnungsblatt* No. 8, 1941.

order to make living space for the Germans. Destruction of nations—genocide^{22a}—was the policy applied to Jews, Poles in Western Poland, to the Slovenes in Northern Yugoslavia and to other Slavic nations as well as to the Gypsies. Obviously, the native laws of the occupied countries which were passed for the purpose of preserving the national integrity and furthering social progress of the countries involved were incompatible with these aims of the German occupation. Therefore, the Germans resorted to such drastic changes in the laws of the occupied lands. Since no case of military necessity could be presented in such conditions such changes in law must be deemed to be in violation of Article 43 of the Hague Convention. Racial discrimination before the law is a violation of the laws of the occupied countries. The Germans introduced the inequality before the law in order to impose their own philosophy on the occupied countries. Obviously such acts cannot be explained away by military necessity. Nor can the inroads into family and social life as made by the applied German law be explained by military necessity.

In particular, the abolition of the rule of law by the introduction of analogy and retroactivity and the creation of an atmosphere of constant fear and legal insecurity was one of the main instrumentalities of terrorism in the occupied countries. The inhabitants of an occupied country are entitled to live under a rule of law. That was the main purpose of the Hague Convention. Life under the rule of law is the purpose of government in civilized society. The abolition of the rule of law is in violation of the Hague Convention and of well established precedents and principles of international law.

Thus, the application of the German Criminal Code as modified in 1935 was held to be in violation of the rule of law. When provisions based on this Nazi modified Criminal Code were introduced into Danzig in 1935, a petition was presented by representatives of minority parties to the League of Nations High Commissioner protesting against this decree as a violation of the Constitution of the Free City of Danzig. The petition was in turn presented to the Council of the League, which voted to submit the request to the Permanent Court of International Justice at the Hague. The Court delivered an

22a. The author of the present article has coined a new word to denote the destruction of nations, namely "genocide," which is made from the ancient Greek word *genos* (race, tribe) and the Latin *cide* (killing), thus corresponding in its formation to such words as homicide, infanticide. "Generally speaking, genocide does not necessarily mean the immediate destruction of a nation, except when accomplished by mass killings of all members of a nation. It is intended rather to signify a coordinated plan of different actions aiming at the destruction of essential foundations of the life of national groups, with the aim of annihilating the groups themselves. The objectives of such a plan would be disintegration of the political and social institutions, of culture, language, national feelings, religion, and the economic existence of national groups, and the destruction of the personal security, liberty, health, dignity, and even the lives of the individuals belonging to such groups. Genocide is directed against the national group as an entity, and the actions involved are directed against individuals, not in their individual capacity, but as members of the national group." (See Lemkin, *Axis Rule in Occupied Europe*, page 79). See also Lemkin, "Genocide, a modern crime" in *Free World*, April 1945 and the editorial in the *Washington Post* "Genocide" of December 3, 1944, reproduced in the *Congressional Record* of 7 December, 1944 as an extension of remarks by Senator Robert Wagner.

The word genocide has been adopted in current American writings. See in particular Kahn and Sayers "The Plot against Peace," New York, Dial Press, 1945.

advisory opinion on December 4, 1935²³ which, in effect, held that the application of the German law of June 28, 1935 (introducing the principle of analogy in the German Criminal Code) was in violation of the constitutional requirement that the government of the Free City of Danzig be by rule of law.

The application of retroactivity in criminal law and punishment on the presumption of future guilt in German occupied countries are likewise expressions of the abolition of the rule of law by the occupant.

The judicial system which was called upon by the German occupant to implement an essentially lawless regime could necessarily be a system of oppression and of denial of the essential legal rights of the inhabitants. The exclusion of entire groups of the population from legal recourse is a violation of article 23 of the Hague Convention as well as of section 289 of the Rules of Land Warfare (Basic Field Manual, Rules of Land Warfare FM 2-10) under which it is forbidden "to declare abolished, suspended or inadmissible in a court of law the rights and rights of action of the nationals of the hostile party."

The excessive penalties and the expulsion of morality and mercy from law and courts bear evidence that not only International Law was violated but also the law of humanity²⁴ which form an integral part of the Hague Convention.

23. Series A/13 No. 65; M. O. Hudson, *World Court Reports*, vol. III, pp. 516 ff.

24. See the preamble to the IV Hague Convention of 1907.

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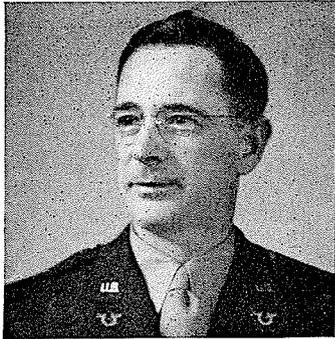
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MENTAL ACCOUNTABILITY UNDER *Military Law*

By COLONEL ABNER E. LIPSCOMB, JAGD*



COL. ABNER E. LIPSCOMB, JAGD

IN a recent court-martial case a psychiatrist testified that an accused, who had served successfully as an officer and who appeared to be altogether rational was,

"No more able to adhere to the right as we defined it here and avoid expressing his symptoms than a man with acute appendicitis is able to alter the course of his acute appendicitis by an act of will."

He was then permitted to testify that the accused was legally sane but medically insane and to explain his apparent contradiction by stating that " * * * our concepts of sanity are derived from English law of one hundred years ago * * * ." Attached to the record was a plea for clemency in which the trial judge advocate and his assistant stated that they were of the opinion that if this case were tried three to five years in the future the accused would be " * * * acquitted by reason of the changing concept of sanity."

At about the same time the United States Court of Appeals for the District of Columbia rendered an opinion involving the law of insanity in the case of *Holloway v. United States*, 148F (2d) 665 (1945). This opinion is interesting, not because of its disposition of the case, but because of its analysis of psychiatry and because of certain of its statements concerning mental accountability, among which were the following:

"Legal tests of criminal insanity are not and cannot be the result of scientific analysis or objective judgment. There is no objective standard by which such a judgment of an admittedly abnormal offender can be measured. They must be based on the instinctive sense of justice of ordinary men.

"The tendency of psychiatry is to regard what ordinary men call reasoning as a rationalization of behavior rather than the real cause of behavior. From this point of view psychiatrists probe behind what ordinary men call the 'reasoning' of an abnormal personality. This tends to restrict the area of moral judgment to an extent that offends our traditional idea that an offender who can talk and think in rational terms is morally responsible for what he does.

" * * * to the psychiatrist mental cases are a series of imperceptible gradations from the mild psychopath to the extreme psychotic, whereas criminal law allows for no gradations. It requires a final decisive moral judgment of the culpability of the accused. For the purposes of conviction there is no twilight zone between abnormality and insanity. An offender is wholly sane or wholly insane.

"A complete reconciliation between the medical tests of insanity and the moral tests of criminal responsibility is impossible. * * * To command respect criminal law must not offend against the common belief that men who talk rationally are in most cases morally responsible for what they do."

The above cases raise questions which, for the purpose of the present discussion, may be summarized as follows:

1. What is the military justice concept of mental accountability? Does it hold the so-called "medically insane" to criminal responsibility?
2. Is mental accountability to be determined on the basis of a scientific analysis or "on the instinctive sense of justice of ordinary men"?
3. What is the proper function of the psychiatrist in an insanity case?
4. Upon whom does the burden of proof lie, and in the final analysis how and by whom must the issue of mental accountability be determined?

These and other questions which have frequently arisen in courts-martial cases have suggested the following brief review of the history of the law of insanity and an appraisal of the standard of mental accountability evolved by military justice.

Legal Tests for Insanity Prior to 1843

During the early history of the common law the madman charged with murder was not acquitted by reason of insanity but a special verdict might be rendered reciting that the accused was insane and thereafter he might be pardoned by the king. There was the same need of a royal pardon for homicide by misadventure or in self defense. Pollock & Maitland's *History of English Law*, Vol. 2, P. 478. During this early period only a few of the psychoses were known and recognized; consequently we find that insanity was generally regarded as a visitation from the Almighty, and many thought that the insane were under demoniacal influence. In fact, it was not until the late eighteenth and early nineteenth centuries that the medical profession began to study insanity with any degree of thoroughness. The *History of Insanity as a Defense to Crime in English Criminal Law*, 12 Cal. L. Rev. 105. During this early period various legal tests were promulgated as legal guides in determining criminal accountability. Among these tests were "the wild beast" test which relieved the criminally insane from accountability only if he were "totally deprived of his understanding and memory, and [did] not know that he [was] doing no more than an infant, than a brute, or a wild beast" (*Rex v. Arnold*, 16 How. St. Tr. 695, 765); the "count twenty pence" test (1 Hale, P.C. 29); and the test of "disability of distinguishing between good and evil." *Hawkins' Plea to the Crown*, Vol. 1, p. 1. Clearly these harsh tests exempted only the most obvious lunatics and imbeciles. The gradual amelioration, however, of criminal law and the development of the science of medicine led to a more humane approach to the problems of criminal justice and resulted in 1843 in the famous opinion in the *McNaughten* case.

The McNaughten Case—The Right and Wrong Test

This landmark in the history of the law of insanity arose as the result of the general dissatisfaction over the acquittal of Daniel McNaughten upon the ground of insanity. McNaughten was tried for the murder of Edward Drummond, Secretary to Sir Robert Peel. The evidence in the case showed that McNaughten had mistaken Drummond for Peel. It further showed that Mc-

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Naughten had been laboring under the insane delusion that Sir Robert Peel had injured him. After McNaughten had been acquitted, the House of Lords, under its power to require opinions of its judges on abstract questions of law, propounded five questions to the Court of the House of Lords. To the five questions the court answered, as follows:

1. *Insane Delusion*

As to "those persons who labour under such partial delusions only, and are not in other respects insane, we are of opinion that, notwithstanding the party accused did the act complained of with a view, under the influence of insane delusion, of redressing or revenging some supposed grievance or injury, or of producing some public benefit, he is nevertheless punishable according to the nature of the crime committed, if he knew at the time of committing such crime that he was acting contrary to law; by which expression we understand your Lordships to mean the law of the land."

2. *Presumption of Sanity*

"* * * the jurors ought to be told in all cases that every man is to be presumed to be sane, and to possess a sufficient degree of reason to be responsible for his crimes, until the contrary be proved to their satisfaction * * *"

3. *Right and Wrong Test*

"* * * to establish a defence on the ground of insanity, it must be clearly proved that, at the time of the committing of the act, the party accused was labouring under such a defect of reason, from disease of the mind, as not to know the nature and quality of the act he was doing; or, if he did know it, that he did not know he was doing what was wrong."

4. *Insane Delusion (continued)*

As to a person laboring "* * * under such partial delusion only, and is not in other respects insane, we think he must be considered in the same situation as to responsibility as if the facts with respect to which the delusion exists were real. For example, if, under the influence of his delusion, he supposes another man to be in the act of attempting to take away his life, and he kills that man, as he supposes, in self-defence, he would be exempt from punishment. If his delusion was that the deceased had inflicted a serious injury to his character and fortune, and he killed him in revenge for such supposed injury, he would be liable to punishment."

5. *Medical Testimony—The Hypothetical Question*

In reply to the question "Can a medical man conversant with the disease of insanity, who never saw the prisoner previously to the trial, but who was present during the whole trial and the examination of all the witnesses, be asked his opinion as to the state of the prisoner's mind at the time of the commission of the alleged crime? or his opinion whether the prisoner was conscious at the time of doing the act that he was acting contrary to law, or whether he was labouring under any and what delusion at the time?" the judges answered that "* * * we think the medical man, under the circumstances supposed, cannot in strictness be asked his opinion in the terms above stated, because each of those questions involves the determination of the truth of the facts deposed to, which it is for the jury to decide, and the questions are not mere questions upon a matter of science, in which case such evidence is admissible. But where the facts are admitted or not disputed, and the question becomes substantially one of science only, it may be convenient to allow the questions to be put in that general form, though the same cannot be insisted on as a matter of right."

Within the same year "the right and wrong test," as set forth in answer number 3, was judicially employed.

Rex v. Higginson, 1 Car. & K. 129. In that case the court held that a feeble-minded defendant whom the jury had found to know the difference between right and wrong was legally accountable for murder. Similarly, the various jurisdictions within the United States followed the lead of the McNaughten opinion by adopting some form of the "right and wrong test." In fact, since 1843 no English or American court has demanded a more exacting standard of proof of insanity than is required by the McNaughten opinion.

Irresistible Impulse Test

The McNaughten opinion was, however, soon subject to much criticism. Learned men of the sciences contended that the right and wrong test as the sole determining test of mental accountability was inadequate and untrustworthy; that it failed to take into account the obvious facts of nature; and that it failed to comprehend the complex pathology of insanity. It was also asserted that experience had shown that "* * * in all lunatics, and in most degraded idiots, whenever manifestations of any mental action can be adduced, a feeling of right and wrong may be proved to exist." Bucknell on Criminal Lunacy, p. 59. To meet such criticisms and to supplement the inadequacy of the right and wrong test, the theory of "irresistible impulse" was advanced. Under this theory a person may, because of disease, defect, or derangement of the mind, be incapable of restraining himself from some particular act although knowing it to be wrong. As early as 1878 Sir James Stevens, in drafting a criminal code for England, sought, but without success, to supplement the right and wrong test by introducing the irresistible impulse test into the statutory law of that jurisdiction. History of Insanity in Criminal Law, 12 Cal. L. Rev. 104, 119. The reluctance of the courts and of the legislative bodies both in England and in this country to accept the more difficult concept involved in the irresistible impulse test has at times been marked by reactionary intolerance. One state went so far as to abolish insanity completely as a defense but its legislative enactment was declared unconstitutional. *State v. Strasburg*, 60 Wash. 106, 110 Pac. 1020. One court, dogmatically refusing to recognize the existence of an irresistible impulse, charged the jury, as follows:

"The law says to men who say they are afflicted with irresistible impulse, 'if you cannot resist an impulse in any other way, we will hang a rope in front of your eyes and perhaps that will help.'" Riddle, J. in charging the jury in *Rex v. Creighton*, 1908, 14 Can. Crim. Cas. 349.

Other judges have rendered decisions based upon their personal lack of scientific knowledge. Thus one justice states,

"For myself I cannot see how a person who rationally comprehends the nature and quality of an act, knows that it is wrong and criminal, can act through irresistible innocent impulse." *State v. Harrison*, 1892, 36 W. Va. 729, 15 S. E. 982, 18 L. R. A. 224.

On the other hand, other jurists have revealed praiseworthy humility before the problems of a complicated science. Such humility is splendidly exemplified in the case of *Parsons v. State* (1886, 81 Ala. 577, 60 A. Rep. 193) in which Mr. Justice Somerville stated:

"It will not do for the courts to dogmatically deny the possible existence of such a disease, or its pathological and psychological effects, because this is a matter of evidence, not of law, or judicial cognizance. Its existence, and effect on the mind and conduct of the patient, is a question of fact

to be proved, just as much as the possible existence of cholera or yellow fever formerly was before these diseases became the subjects of common knowledge, or the effects of delirium from fever, or intoxication from opium and alcoholic stimulants would be. The courts could, with just as much propriety, years ago, have denied the existence of the Copernican system of the universe, * * *."

The controversy in this field of the law has been extensive. In 1910 Colonel John H. Wigmore, then President of the American Institute of Criminal Law and Criminology, appointed a committee composed of four physicians and five lawyers to resolve the difficult problem of determining the relation of insanity to criminal responsibility. In 1916 this committee, which had been in continuous existence since its appointment, brought in a unanimous resolution recommending a bill on criminal responsibility as follows:

"When Mental Disease a Defense. No person shall hereafter be convicted of any criminal charge when at the time of the act or omission alleged against him he was suffering from mental disease and by reason of such mental disease he did not have the particular state of mind that must accompany such act or omission in order to constitute the crime charged." *Insanity and Criminal Responsibility*, 30 *Harvard L. Rev.*, 535, 536.

The code of France provides that "There can be no crime, or offense if the accused was in a state of madness at the time of the act." Justice Somerville in *Parsons v. State* states,

"For some time the French tribunals were inclined to interpret this law in such a manner as to follow in substance the law of England. But that construction has been abandoned, and the modern view of the medical profession is now adopted in that country."

Similarly the criminal code of Germany reputedly contains a provision, which is said to have been the formulated result of a very able discussion both by the physicians and lawyers of that country. The German code provides

"There is no criminal act when the actor at the time of the offense is in a state of unconsciousness or morbid disturbance of the mind, through which the free determination of his will is excluded." 14 *Encyc. Brit.* (9th Ed.), p. 112.

Although the English courts have persistently adhered to the right and wrong test of the McNaughten opinion to the exclusion of the so-called irresistible impulse test, the various jurisdictions within the United States have been divided. Wharton's *Criminal Law*, 12th Ed., Sec. 408. Miller on *Criminal Law* states,

"Some judges have used the term (insanity) in contradistinction to the 'right and wrong' test; others use it as illustrative of that test; others insist that the 'right and wrong' test properly interpreted includes the element of irresistible impulse; and still others deny that such a form of insanity exists."

A majority of American jurisdictions, however, seem to reject the irresistible impulse tests (see Wharton's *Criminal Law*, 12th Ed., sec. 408, and cases therein cited). Indeed, the New York Penal Code recognizes the defense of insanity only when the defendant "was laboring under such a defect of reason as either (1) not to know the nature and quality of the act he was doing, or (2) not to know whether the act was wrong." Penal Code, N.Y., 21, see *People v. Taylor*, 138 N.Y. 398, 34 N.E. 275.

Meaning of Right and Wrong in Testing Sanity

Mr. Justice Cardozo, in discussing the meaning of right and wrong as those words are employed in testing sanity, has stated:

"As propounded in these cases, it meant a capacity to distinguish right from wrong, not with reference to the particular act, but generally or in the abstract. Sometimes it was spoken of as a capacity to distinguish between 'good and evil' * * *. Wrong was conceived of as synonymous not with legal but rather with moral wrong. Lord Mansfield told the jury in *Bellingham's Case*: 'It must be proved beyond all doubt that at the time he committed the atrocious act, he did not consider that murder was a crime against the laws of God and nature.' That became for many years the classic definition. It was followed by Lord Lyndhurst in *Reg. v. Oxford* (9 C., & P. 533). Its phraseology, as we shall see, has survived with little variation in charges and opinions of our own day." *People v. Schmidt* 1915, 216 N. Y. 324.

As has been pointed out, however, by Justice Bartlett in *People v. Carlin*, 194 N.Y., 448, 87 N.E. 805, "it is not enough that (the accused) has views of right and wrong that are at variance with those that find expression in the law. The variance must have its origin in some disease of the mind." See *Hotema v. United States*, 186 U.S. 413, 22 S.Ct. 895, 46 L. Ed. 1225.

If we accept moral responsibility as the basic test of legal accountability "* * * both the right and wrong test and the irresistible impulse test ought to be recognized. If free will and self-restraint be destroyed by mental disease, knowledge of right and wrong is entirely useless. Will is as necessary an element of criminal intent as are reason and judgment." *Criminal Responsibility of the Insane and Feeble-Minded*, 9 *Journal of Criminal Law and Criminology*, p. 497. As Steven said, "Legal Punishment connotes as far as possible moral infamy."

The Irresistible Impulse Test Distinguished From Moral and Emotional Insanity

The theory of the irresistible impulse test must be carefully distinguished from the so-called moral or emotional insanity which some courts have described as a perverted condition of a person's moral nature. It is recognized that a person may become so morally degenerate either from bad associations and surroundings or from continued unrestrained indulgence in vice that his conscience will no longer restrain him. Such moral degeneration does not excuse a person from criminal responsibility. Neither does so-called emotional insanity or temporary frenzy or passion arising from excitement or anger which is not the product of a mental disease. There is danger of being misled by the decisions dealing with these subjects as the terms have sometimes been carelessly used. Each case must be examined to see whether the irresistible impulse under consideration arose from a mental disease or merely from a moral depravity or callous nature. Clark & Marshall *Crimes*, 4th Ed. Sec. 87; Miller on *Criminal Law*, p. 130; 22 BR 1, 52.

Mental Accountability in the Federal Courts

The early United States District Court decisions seem to follow the McNaughten opinion and to restrict mental accountability to the so-called right and wrong test. See *United States v. Holmes*, 1858, Federal Case No. 15382; Cinteau's case, 1882, 10 Fed. 161; *United States v. Faulkner*, 1888, 35 Fed. 730; and *United States v. Young*, 1885, 25 Fed. 710. As far back, however, as 1873 the Supreme Court of the United States in *Mutual Life Insurance Company v. Terry*, 15 Wallace 580, gave its blessing to a modification of the old rule. Mr. Justice Hunt stated:

"We hold the rule on the question before us to be this * * *. If the death is caused by the voluntary act of the assured, he knowing and intending that his death shall be

the result of his act, but when his reasoning faculties are so far impaired that he is not able to understand the moral character, the general nature, consequences and effect of the act he is about to commit, *or when he is compelled thereto by an insane impulse, which he has not the power to resist*, such death is not within the contemplation of the parties to the contract, and the insurer is liable." (Italics supplied.)

This attitude toward the "irresistible impulse" theory has been reaffirmed and clarified in various decisions as follows: *Insurance Company v. Rodel*, 95 U.S. 232, 24 L. Ed. 433; *Manhattan Life Insurance Company v. Broughton*, 109 United States 121, 27 L. Ed. 878; *Davis v. United States*, 165 U.S. 375; 41 L. Ed. 750; see also *United States v. Chisholm*, 153 Fed. 808 (C.C. S.D. Ala. 1907). All of these authorities are cited and discussed in *Smith v. United States*, 36 F. (2) 548 (App. D.C. 1929), which is probably the leading Federal opinion on the subject. The opinion states in part, as follows:

"Laying aside the objectionable negative style of the charge, we think it erroneous in point of law, in that it ignores the modern well-established doctrine of 'irresistible impulse'. The English rule, followed by the American courts in their early history, and still adhered to in some of the states, was that the degree of insanity which one must possess at the time of the commission of the crime in order to exempt him from punishment must be such as to totally deprive him of understanding and memory. This harsh rule is no longer followed by the federal courts or by most of the state courts. The modern doctrine is that the degree of insanity which will relieve the accused of the consequences of a criminal act must be such as to create in his mind an uncontrollable impulse to commit the offense charged. This impulse must be such as to override the reason and judgment and obliterate the sense of right and wrong to the extent that the accused is deprived of the power to choose between right and wrong. The mere ability to distinguish right from wrong is no longer the correct test either in civil or criminal cases, where the defense of insanity is interposed. The accepted rule in this day and age, with the great advancement in medical science as an enlightening influence on this subject is that the accused must be capable, not only of distinguishing between right and wrong, but that he was not impelled to do the act, by an irresistible impulse, which means it will justify a verdict of acquittal that his reasoning powers were so far dethroned by his diseased mental condition as to deprive him of the will power to resist the insane impulse to perpetrate the deed, though knowing it be wrong."

Subsequent to the above opinion the entire personnel of the Court of Appeals for the District of Columbia was changed. In its recent opinion in *Holloway v. United States*, cited at the beginning of this article, the present members, in considering a case involving the issue of insanity and without referring to the *Smith* decision, stated, "The ordinary test of criminal responsibility is whether the defendant could tell right from wrong." They then added, "A slightly broader test is where his reason has ceased to have dominion over his mind to such an extent that his will was controlled, not by rational thought, but by mental disease." In discussing the application of the tests of mental accountability they stated:

"For the purposes of conviction there is no twilight zone between abnormality and insanity. An offender is wholly sane or wholly insane. A complete reconciliation between the medical test of insanity and the moral test of criminal responsibility is impossible. * * * To command respect criminal law must not offend against the common belief that men who talk rationally are in most cases morally responsible for what they do."

The reference to the irresistible impulse test as a slightly

broader test than that involved in the right and wrong test is a distinct understatement. Only one who suffers from an extreme form of psychosis is unable to distinguish right from wrong. Such a person is clearly insane and incompetent for all purposes. On the other hand, the irresistible impulse theory recognizes the scientific truth that the capacity to feel remorse and to distinguish right from wrong does not necessarily imply the mental ability to control conduct. The introduction of this theory was a distinct compromise with the law's traditional concept as expressed in the Holloway opinion that "An offender is wholly sane or wholly insane." Contrary also to one of the statements quoted, the irresistible impulse standard of accountability acknowledges that there are twilight zones between abnormality and insanity as it is usually understood in which a man may walk and talk rationally and yet, because of a diseased mind, be so incapable of controlling his conduct as not to possess freedom of action and not to be, therefore, legally responsible for his acts. Since medical science recognizes that an insane impulse may be truly irresistible, and since criminal justice punishes only for acts voluntarily and freely committed, the mandates of simple justice require that full effect be given to this basic principle.

Standards of Mental Accountability under Military Law

The present Manual for Courts-Martial (1928) has provided military justice with a standard of mental accountability which is free from dogma, which is independent of any conventional legal or medical definition of insanity, and which is designed to establish mental accountability upon the basis of moral justice. The Manual states,

"* * * A person is not mentally responsible for an offense unless he was at the time so far free from mental defect, disease, or derangement as to be able concerning the particular acts charged both to distinguish right from wrong and to adhere to the right." M. C. M., 1928, par. 78.

The Manual for Courts-Martial, 1921, on this point provides that in determining the issue of mental responsibility for a crime, the courts-martial having such responsibility should ballot upon the following question:

"(2) Was the accused at the time of the commission of the alleged offense so far free from mental defects, mental disease, or mental derangement as to be able, concerning the particular acts charged, both (1) to distinguish right from wrong and (2) to adhere to the right?"

"This question will be balloted upon as to each specification, and if answered negatively or a tie vote the court will acquit the accused as to such specification." M. C. M., 1921, par. 219g.

Similarly, Winthrop states:

"To constitute a defense on the ground of insanity, it may be made to appear, * * *, on the other hand, that, though aware of the nature and consequence of his act, as well as of its wrongfulness or its illegality, he was prompted by such an uncontrollable impulse as not to be a free agent." Winthrop's Military Law and Precedents, Reprint 1920, p. 294.

A rule which was apparently even broader and more liberal than that contained in the foregoing quotations was set forth in paragraph 219 of the Manual for Courts-Martial, 1917, which asserted that the question to be determined in any case involving mental accountability was "whether the accused at the time of the wrongful act had the necessary criminal mind to commit the wrongful act charged."

It seems clear that the standard for mental accountability as set forth in the Manual combines both the con-

cept of the right and wrong test and the concept of the irresistible impulse test and is sufficiently all-inclusive to encompass the problems involving insane delusion as presented in the McNaughten opinion. Upon the military justice test the ultimate triers of the facts are not concerned with complicated definitions or with conventional forms of so-called insanity but rather with the following all-important questions:

(a) Was the accused at the time of the alleged offenses "so far free from mental defect, disease or derangement as to be able concerning the particular acts charged" to distinguish right from wrong? Fifth sub-paragraph, paragraph 78a, p. 63, M. C. M., 1928.

(b) Was the accused at the time of the alleged offenses "so far free from mental defect, disease and derangement as to be able concerning the particular acts charged * * * to adhere to the right." Fifth sub-paragraph of paragraph 78a, p. 63, M. C. M., 1928.

(c) Was the accused at the time of his trial sufficiently sane "intelligently to conduct or cooperate in his defense?" First sub-paragraph of paragraph 63, M. C. M., 1928.

If either of the first two questions is answered in the negative the accused should be found not guilty by reason of mental disease, defect, or derangement. If the third question is answered in the negative he should not be tried. The above principle has been consistently recognized in military law. See 1 BR 39, 46; 8 BR 57; 11 BR 281, 297; 13 BR 389; 14 BR 339; 15 BR 281; 18 BR 301, 312; 23 BR 115. For example, in 13 BR 389, *Riesenman*, the accused was shown to be an intelligent individual, able to conduct his own defense and to recognize right from wrong as to the particular acts charged. Since, however, the evidence showed that he was suffering from mental disease, defect, or derangement which rendered him unable, concerning the particular acts charged, to adhere to the right, the findings of guilty were disapproved. In a much older decision, The Judge Advocate General summarized this controlling principle, as follows:

"Men, under the influence of disease, may know the right, and yet be powerless to resist wrong. The well-known exhibition of cunning by persons admitted to be insane, in the perpetration of an illegal act, would seem to indicate comprehension of its evil nature and legal consequence, and yet the power of self-control being lost from disease, there can be no legal responsibility." CM 116694, *James*.

Probative Force of a Report by a Board of Medical Officers—The Expert's Testimony

The primary function of a board of medical officers appointed pursuant to Army Regulation 600-500 is to examine into the mental condition of a designated person for the purpose of rendering an opinion concerning his sanity or mental accountability to the authority directing the examination. Since the personnel of the Board act out of court, and since they have not been subjected to cross-examination, they should be called as witnesses and given an opportunity to explain their conclusions. The necessity of this procedure was recognized in the Manual for Courts-Martial, 1917, wherein it was stated:

"The medical report as a whole will be admissible in evidence, and when admitted the court will have called as a witness for the court at least one of the members of the board to be thoroughly examined, as if on cross-examination, by counsel for the accused, the judge advocate or the court, as to any feature of the report, and on request of the accused the remaining members of the board shall be called for cross-examination." (Italics supplied.)

The testimony of an alienist or psychiatrist should not be based upon the facts which are the subject of contro-

versy. In order to avoid the difficulty of presenting an opinion based upon facts which may not be believed by the court, hypothetical questions closely paralleling the case history of the accused as illustrated in answer number 5 of the McNaughten opinion may be employed. A psychiatrist may of course testify upon the basis of a case history, which is conceded to be true, or upon his personal observation and examination of an accused.

Result of a Finding of Not Guilty by Reason of Mental Defect, Disease or Derangement

An acquittal by reason of mental defect, disease, or derangement does not adjudge the accused to be insane but only indicates that reasonable doubt exists as to his mental accountability for the particular offense charged. Accordingly, before the accused may legally be incarcerated in an institution for the insane, he must be examined by a special board of medical officers in accord with Army Regulations in order to determine whether or not his mental disorder is of a type requiring such incarceration. If the court erroneously applies the test of the Manual for determining mental accountability and wrongfully finds the accused guilty and if the Board of Review and The Judge Advocate General hold the record of trial legally insufficient to sustain such findings of guilty, the reviewing or confirming authority may order a rehearing or such other action as may be appropriate. A.W. 501½, par. 4.

Proving Mental Accountability—The Function of the Psychiatrist

The ultimate problem of determining the mental accountability of an accused is a factual one to be determined by the court in the light of the legal standard fixed by military law. This standard states the law's concept of moral justice by directing that an accused shall not be convicted unless he is "so far free from mental defect, disease, or derangement as to be able concerning the particular acts charged both to distinguish right from wrong and to adhere to the right." Since the standard measures out the law's concept of moral justice, the court's function in applying it does not involve primarily moral judgment but the fact finding problem of determining from the evidence before it the existence or nonexistence of a disabling mental disease, defect, or derangement.

Mental capacity like other human qualities or conditions may and, in most cases must, be discovered by circumstantial evidence. Because of this recognized truth, great latitude is allowed by the courts in the reception of evidence. Wharton's Criminal Evidence, 11th Ed., Sec. 318. In this connection Wigmore states:

"The first and fundamental rule, then, will be that any and all conduct of the person is admissible in evidence. There is no restriction as to the kind of conduct. There can be none; for if a specific act does not indicate insanity it may indicate sanity. It will certainly throw light one way or the other upon the issue." Wigmore on Evidence, 3rd Ed., Sec. 228.

It is also relevant and proper to show pre-existing external circumstances which may have tended to produce a specific mental condition or the prior or subsequent existence of a condition from which a particular mental condition may be inferred. Wigmore, supra, Sec. 227. For the same reason Wigmore stated:

"It is almost universally agreed that a lay-witness is qualified to testify to insanity; and it seems to be universally accepted that, in whatever form the issue of insanity

may be presented, the jury may take into consideration the behavior of the person as observed by them." Sec. 1160.

The Burden of Proof

Although there are differences of opinion in the state courts concerning the party who bears the burden of proof on the issue of mental accountability, the practice in military law is well settled.

The Manual for Courts-Martial directs:

"Where a reasonable doubt exists as to the mental responsibility of an accused for an offense charged, the accused cannot legally be convicted of that offense * * *." M. C. M., 1928, par. 78.

This provision, which is similar to the provision of the 1921 Manual, places the burden of ultimate persuasion on the issue of mental responsibility upon the prosecution and recognizes the fundamental principle that all men are deemed innocent until proved guilty beyond a reasonable doubt. See M.C.M., 1921, par. 219. On this point the United States Supreme Court has made the following authoritative pronouncement:

"* * * Strictly speaking, the burden of proof, as those words are understood in criminal law, is never upon the accused to establish his innocence or to disprove the facts necessary to establish the crime for which he is indicted. It is on the prosecution from the beginning to the end of the trial and applies to every element necessary to constitute the crime. * * *"

"If insanity is relied on and evidence given tending to establish that unfortunate condition of mind, and a reasonable well-founded doubt is thereby raised of the sanity of the accused, every principle of justice and humanity demands that the accused shall have the benefit of the doubt." *Davis v. United States*, 160 U. S. 469.

It is clear, therefore, that evidence which raises a reasonable doubt as to an accused's mental responsibility overcomes the presumption of his sanity and injects the issue of his mental accountability into the court-martial trial. The burden then rests with the prosecution to prove, as an instance to the ultimate issue of guilt, that the accused was "so far free from mental defect, disease, or derangement as to be able concerning the particular acts charged both to distinguish right from wrong and to adhere to the right." If the prosecution fail to establish such proof beyond a reasonable doubt, the court should acquit the accused.

Although it appears that insanity is not necessarily inherited, psychiatrists state that there is a definite tendency for this malady to be transmitted to descendants. It has also been shown that insanity may appear in one generation and not in the following but may re-appear in the third generation. It follows, therefore, that the insanity both of an ancestor, as well as that of a collateral relative, may indicate an anterior ancestral tendency to the disease which may appear in other collateral branches of the family. Although some courts have imposed limitations on evidence showing this inherited tendency, courts-martial have been liberal in the admission of such evidence.

The proper function of the psychiatrist as an expert witness on mental conditions should be well understood. Although his testimony is of vital importance to a proper understanding of certain forms of mental conditions, there is no rule of evidence which requires his testimony in a court-martial case and no rule of preference which accords to it greater weight than that accorded to other relevant testimony. Wigmore, *supra*, Sec. 2090. In the Army, however, as in other jurisdictions where modern

procedure is followed, an accused who has raised the issue of his mental accountability is placed under observation by physicians with the result that their expert testimony becomes a practical requirement in his trial. Wigmore, *supra*, 2090(c). The probative force of the testimony of the psychiatrists is dependant, as is the probative force of the testimony of all witnesses, first, upon the witnesses' individual credibility as evaluated by the court and, secondly, upon the logic and clarity of his scientific analysis of the problem before the court. His primary function is to enlighten the court on the pathology and symptoms of the particular mental disorder with which the accused may be afflicted and to explain the probable effect of such a mental condition upon the accused's ability to distinguish between right and wrong and his ability to control his conduct. The psychiatrist just as the court which he serves should endeavor not to inject his individual concept of morality and justice into the case. He should acquaint himself with the military standard of mental accountability and remember that when he is testifying before a court-martial, or advising a reviewing authority, he is not functioning under the law of his particular state or applying a test of sanity as it existed under English law one hundred years ago, but that he is seeking to help the court or the reviewing authority to make a scientific and truthful answer to the questions involved in the military justice standard of mental accountability.

Conclusions

In conclusion and to answer more particularly the questions listed at the beginning of this article, it should be observed that military justice in determining the issue of mental accountability is not controlled by any conventional, legal, or medical definition of sanity and that certainly it is not restricted to the concepts of the English law of one hundred years ago. On the contrary, military justice has evolved a unique standard of mental accountability which includes not only the concepts involved in the traditional so-called right and wrong test but also the more liberal and humane concept of moral justice involved in the so-called irresistible impulse test. In incorporating this latter concept into its standard of mental accountability, military justice has recognized the scientific truth that the capacity to feel remorse and to distinguish between right and wrong does not necessarily imply power to control conduct. It has thus compromised the law's traditional arbitrary concept that all persons within certain categories possess absolute freedom of will and that all persons within other categories possess none. It has repudiated the conventional legal position as stated in *Holloway v. United States*, *supra*, that, "For the purposes of conviction there is no twilight zone between abnormality and insanity. An offender is wholly sane or wholly insane." In other words, the military justice standard of mental accountability represents a compromise between law and medical science, a compromise between the concept of sanity and justice of the ordinary man and the concept of justice and sanity of the modern psychiatrist. It admits that a man may walk and talk rationally and yet not be medically, morally, or legally responsible for his conduct.

Although it has not been entirely satisfactory to the lawyer or to the psychiatrist, it possesses distinct merit. It is based upon the fundamental principle of criminal justice that a crime has not been committed unless the accused, at the time of the particular offense complained

(Continued on Page 43)

Criminal Procedure and International Law

By ERNST RABEL*

I

ALTHOUGH fear has been expressed in many public discussions that "legalistic technicalities" would delay the prosecution of war criminals, the American and British governments have firmly resolved that the punishment of these criminals should take place in true legal forms. In the mind of some common law lawyers this would mean the observance of numerous particulars of traditional Anglo-American procedures. On the other hand, it is often postulated that the procedure should agree with the requirements of international law.

However, if specified rules prescribing the essentials to be observed in criminal matters by all international courts are supposed to exist, they have not been laid down thus far in any document or even treatise. There are only two related institutions recognized in past international practice. The peacetime obligations of a State toward another State in trying in its national courts penal matters concerning a national of the other power have been fragmentarily defined in the doctrine of denial of justice. On the other hand, highly authoritative, though neither clear nor satisfactory rules, exist in the conventions and manuals on the treatment of prisoners of war.

In the extraordinary situation which is now attracting world-wide attention, might we not think it altogether unnecessary to consult the oracle of international law before embarking on the venture of describing procedural requirements? In a sense this is quite true. The admirable Report by Mr. Justice Jackson to the President of June 1945 has convincingly grounded the entire intended prosecution on the conscience of the whole civilized world, outraged by deeds regarded as crimes "since of the times of Cain." International law, which defines punishable delicts, grows out of perennial conceptions of civilized nations in conformity with the urgent needs of restoring peace and justice after mankind's most terrible shock in history. In deeply moving words, the Report points to the fundamental task of developing international law rather than to look to its scant past achievements. The Report declares with respect to procedure that the trial must not be protracted in duration by certain obstructive and dilatory tactics resorted to by defendants in our ordinary criminal trials, but must be "fair and deliberative and not discredited in times to come by any mob spirit," as the good name of the United States requires—a statement easily defended by simply arguing that the trial not less than the applicable law, is naturally ordained by the commands of human decency and justice. This conception of the procedural task conforms with international law when understood in its full scope and by the development of which some more certainty and elaboration may be reached.

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II

The conventions concerning prisoners of war, it is true, have embodied a principle not in harmony with the methods finally obtainable in international relations. The Hague Convention of 1907 on Laws and Customs of War on Land decreed that prisoners of war shall be subject to the laws, regulations, and orders in force in the army of the State in whose power they are,¹ and the Geneva Convention of 1929 expounded this "principle of parity" or "equality" by providing that "sentence may be pronounced against a prisoner of war only by the same courts and according to the same procedure as in the case of persons belonging to the armed forces of the detaining Power."² The background of these and other sweeping stipulations is obvious. The internationalists of the nineteenth century brought about real progress in establishing as much equality for aliens with nationals as they could secure. Thus, gross discrimination in criminal procedure against foreigners was also sometimes censured as denial of justice.³ However useful the prohibition of discrimination was and still is in other fields, it does not work well when applied to procedural matters.

During the first World War, the British found it difficult and disadvantageous to carry out Article 8 of the Hague Convention in its entirety, not only with respect to food and pay but also with regard to gravity of punishments and summary punishment.⁴ National laws and regulations impregnated by many influences and intended to maintain discipline and morale in the national forces are not easily adapted to soldiers alien to its army and national mentality. It is characteristic that the British not only regretted the impossibility of literally fulfilling the clause on their part and complained about deficiencies by Germany and Turkey, but also conceded that "the unaccustomed British procedure was doubtless a cause of grievance to those whom we held."⁵ Indeed, one may ask, could these provisions be stretched to the point that a British military court was prohibited from applying the German procedure rather than the British in the case of a German prisoner?

The defects of the principle of parity lie deeper, however. In the 1920's, we became aware of possible situations where national laws from which deviation should have been prohibited in themselves were of so low standard that they did not afford any reasonable protection. Discrimination, moreover, is often not easy to prove when it occurs factually rather than legally. The Permanent Court of International Justice has resorted to generally accepted international law, in construing exceptions contained in a litigious bilateral treaty, and declared that it excluded expropriation without indemnity although it allowed expropriation for reasons of

1. 36 Stat. 2259, U. S. Treaty Series No. 538, Art. 8, Annex to the Convention.

2. 47 Stat. 2021, U. S. Treaty Series No. 846, Art. 63; Basic Field Manual, FM 27-10, par. 136.

3. E.g., Arbitration between United States and Mexico. Cf. De Visscher, *Le deni de justice en droit international*, 52 *Recueil des cours*, Academie de Droit International, 1935 II, p. 371 at p. 411, 414.

4. Lieut. Gen. Sir Herbert Belfield, *The Treatment of Prisoners of war*, 9 *Transactions of The Grotius Society* (1924), 131 at 140-146.

5. *Idem* at p. 140.

public utility, judicial liquidation and similar measures.⁶ Expressly disregarding in this line of thought the consideration of the treatment of nationals,⁷ the court thereby has in fact paved the way for establishing the principle of an international minimum of protection of foreigners independent of the manner in which a State treats its own subjects. This great principle has a still greater background. The theory disapproving discrimination and compelling a State to apply its own national rules envisages the relationship between two States, such as the detaining power and the national state in the case of prisoners of war. Although this narrowness corresponds with the historical development of international law from bilateral treaties, in our conception States bear responsibilities toward the community of nations. In the doctrine of denial of justice an international duty of repressing criminality has been incidentally recognized in favor of the victim of a crime.⁸ Modern international law inevitably aims at a reasonable relationship among all members of the community of States, and, hence, needs objective standards, while the principle of parity is conceived in the domain of one State. The rule of equality is most unworkable when a plurality of nations is concerned, and would cause most undesirable complications when a criminal prosecution is conducted by a coalition of war-waging powers. A more formal ground for eliminating the application of the equality clause as compulsory for detaining States is the commonly stated view that privileges of prisoners of war do not apply to persons having violated the laws of war prior to being captured.⁹ But it is the broader evolution that counts most even in special fields of international law. A recent author has correctly observed that "since the beginning of the twentieth century there has been a trend in treaty law to establish, in conjunction with the rule of national treatment, a minimum international standard." He thinks that it is not clear whether customary international law "has come to include some elements of the international standard established by treaty."¹⁰ But the minimum standard is more than a pious wish.

III

Among the sources of international law, the Statute of the Permanent Court of International Justice, art. 38 (3), enumerates "the general principles of law, recognized by the civilized nations." In the best founded opinion, this method of ascertaining rules is not just a privilege for the World Court, needed without doubt by this first institutional jurisdiction over States for deciding litigious questions in the absence of solutions offered by treaties or established customs. The provision acknowledges a subsidiary source of international law of greatest significance. Tangible rules may be formed out of the huge treasure stock of age-old human experience and universal legal accomplishment. Although legal institutions have grown in the field of private law and procedure of the various countries, they present a substance revealing, under comparative research, common features and thus furnishing the materials for shaping detailed rules of international behavior. The fundamental differences of structure between national and international law by themselves, are no barrier to the transplantation of universal national

rules into the supernational sphere, though they do not allow inconsiderate, mechanical imitations.¹¹

While in the Anglo-American common law, principles of criminal procedure have remained more or less constant, profound changes have occurred in all other countries and a great deal of variety is to be found in their present laws. Nevertheless, there is a common fund and a common gist of modern thinking. Recently in elaborating a draft of a Bill of Rights following as closely as possible the Amendments to the American Constitution, but intended to suit all peoples of our times, not the slightest doubt existed as to what the essential requirements of an orderly and just criminal proceeding, or for that matter, any litigation are. Fair trial is defined as follows: "Everyone has the right to have his criminal and civil liabilities and his rights determined without undue delay by fair public trial by a competent tribunal before which he has had opportunity for a full hearing. The State has a duty to maintain adequate tribunals and procedures to make this right effective."¹²

Of course, the framework of this condensed declaration is expected to be filled in by the national institutions of each country. But the text also leaves a large place to the circumstances of particular cases, a fair trial demanding rational methods of inquiry into the facts and reasonableness depending on the circumstances. Likewise, the sound discretion of the tribunal must have broad play, as for instance, in determining what persons ought to be admitted to a hearing to make it "public" or to what extent a hearing may be requested by either party.¹³

A more explicit formulation has been adopted in the Constitution of the Philippines of 1935¹⁴ which despite close relationship to the American Constitution significantly prefers some statements of principles capable of universal application.

"No person shall be held to answer for a criminal offense without due process of law."

"In all criminal prosecutions the accused shall be presumed to be innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy and public trial . . .¹⁵ and to have compulsory process to secure the attendance of witnesses in his behalf."

Most instructive, among many other instances, is a glance at the focal point of the history of continental criminal procedure. Glaser, one of the two prominent jurists who renewed the Austrian law in its short period of liberalism, has summarized, in a celebrated book, the relation between the German Code of 1873 and the Austrian of 1877 on one side and the British law on the other. He showed the more informal character of continental proceedings and the greater initiative it left to

6. Publications of the Permanent Court of International Justice. Series A, Judgment No. 7 (1926), p. 21, 22, 32.

7. P. 33.

8. See Charles de Visscher, *supra*, note 3, p. 413, 414.

9. See the citations by Colby, 23 Michigan Law Review 482 at 487; JAGS Text No. 7, p. 102, note 249.

10. Flory, Prisoners of War (1924), p. 93.

11. The large literature on general principles of law as source of international law is listed by Elfried Härle, *Die Allgemeinen Entscheidungsgrundlagen des Ständigen Internationalen Gerichtshofes* (1933), 313-323. The conception of the present author has been summarized in *1 Zeitschrift für ausländisches und internationales Privatrecht* (1927), 17 ff.

12. *Essential Human Rights*, by a Committee of Advisers representing the principal cultures of the world, February 7, 1944, Art. 7. Drafting of this article is due to Professor Noel T. Dowling.

13. All of these examples follow the comment to the article cited in the precedent note.

14. U. S. Senate Doc. No. 43, 74th Congress, First Session; Hayden, *The Philippines* (1942), p. 822 ff.

15. Art. 3, section 1 (15) and (17). The text also gives a right to meet the witnesses face to face; this is everywhere done where possible and feasible. Cf. German C. Crim. Proc. (1924), § 251.

the presiding judge, characteristics which have increased in importance since that time. He regarded the essential achievements of the Code reforms as establishing the principles "of accusation," putting prosecutor and defendant as parties before an independent court, orality, publicity of trial, opportunity for defense, right to assistance by expert counsel, and decision on the ground of well substantiated, though subjective, certainty of the court.¹⁶ Although trial by jury in serious criminal cases was required in nineteenth century Germany, it was adopted from the French and only indirectly from English models. Its advantages and disadvantages were the subject of a long and heated discussion in Germany, ending under the Weimar Republic with the abolishment of the institution.¹⁷

A few examples may illustrate the freedom from formalism by which the pre-Nazi courts in Germany and Austria firmly believed to serve the truth in a more reliable way than any restrictions imposed on the admission of evidence or limitations on the judicial appreciation of the defendant's guilt.¹⁸ There is no prohibition on the introduction of hearsay evidence. Of course, the judge must ascertain the source of a witness' knowledge so that facts learned by the witness through other person's information be not treated as though they were experienced by himself, and the witness himself be warned not to confuse his own perceptions with mere inferences. The weight or value of such testimony rests on the conscientious appreciation by the court of whole evidence in the case. Cross examination of witnesses and experts takes place only upon agreement between prosecutor and counsel (C. Cr. Proc., § 239). The artful technique of British barristers is alien to the continental lawyers and would be regarded with suspicion by the public. The accustomed practice is to have the accused, witnesses and experts thoroughly examined by the court, although in the eyes of Anglo-American spectators the roles of the court and the prosecution seemed to be mingled. The trial is dominated by its purpose to allow a decision based on the conscience of the court. "The court decides in finding the result of the evidence according to its free conviction drawn from the sum total of the trial." (C. Cr. Proc., § 261.) The residue of medieval formalism has been thrown out under the impulse of the Roman model and modern liberalism. No legal rules prescribe what witnesses and documents are permissible, or under what conditions a fact may be deemed proved. Whether a confession is credible and how its withdrawal by the defendant is to be evaluated; whether a witness is trustworthy, be he under oath or unsworn because suspected of being an accomplice; what value may be attributed to the assertions of a lunatic or a child; or whether testimony reported in a document and recited in the hearing should be trusted—all such questions are decided by the judges according to their considered subjective conviction. It may be specially noted that a penal sentence, too, may be recited and may be found by the court to be conclusive

proof not only of the verdict having been pronounced but also of the deed having been committed.¹⁹ In the judgment, however, the court must indicate accurately the reasons for deciding the factual and legal issues, announce the facts considered proved and the means of proof and discuss all particular contentions of the parties. (C. Cr. Proc., § 267.)

These examples, which could be multiplied many times over, show, on the one hand, what the best German doctrine has thought to be the most efficient and reliable administration of penal justice, and on the other, that the common essence of modern prosecution consists of the basic requirements of reasonableness rather than of formalistic rites. *These same requirements present the minimum and the maximum of what the general principles of law make the requisites of a criminal prosecution in international law.* Manifestly, the outstanding fairness of Anglo-American procedural institutions, although cumbersome in part, would be mighty guarantees for every exacting requisite. The right of a prosecuting power to apply such a procedure is undeniable although there would be no compulsion on it to do so. Ideally, all national peculiarities that impede the investigation and ascertainment of the facts should be eliminated.

* * *

While the foregoing paper does not purport to deal with the various propositions advanced for the trial of war criminals in Europe, it should be noted that the greatest deviation from accustomed ways seems to be the plan sketched by Mr. Justice Jackson to separate the trials against certain organizations such as the Gestapo and the SS from the prosecution of their individual members. Of course, in ignorance of the planned details I can only express a few general observations. The division is considered indispensable because of the unprecedented number of accusations. If I understand well, the main trial will be directed against the available leading members of the accused organizations, who may be regarded as the most representative defendants ("justi defensores") so as to justify the binding force of the judgment against every one. It would be senseless, in fact, either to embrace many thousands in one litigation, or to reproduce the same hearings and statements in thousands of trials. A German court of the Republic would not have been able to split the prosecution of the same accused person, but would have declared its own statements in previous judgments "known to the court" and therefore not needing proof (until counterproof is furnished), and, as said before, would have been permitted to establish facts and punishable acts because conclusively evidenced by a former penal sentence of another tribunal. It may even happen, under the German Code, that a penal court has to accept without any re-examination facts stated by another court as basis of its own judgment, viz., when a sentence has been partially quashed by the Supreme Court and referred to a new lower court for completion (C. Cr. Proc., § 354). These are not close parallels but they, too, are necessary concessions to judicial economy. It is of paramount importance for the world, by no means excluding the German people, that justice be done, that is, that the innocent be freed and the guilty punished.

16. Julius Glaser, *Handbuch des Strafprozessrechts* (Binding, Syst. *Handbuch der Deutschen Rechtswissenschaft*, IX 4) (1883), p. 162, 203.

17. See H. J. Wolff, *Criminal Justice in Germany*, 42 *Michigan Law Review* (1944), p. 1067 at 1075.

18. The German Code of Criminal Procedure of 1877 was revised by Laws of March 22, 1924, and December 27, 1926, and is cited here in this amended form. Subsequent changes under National-Socialist rule are disregarded, of course; they would permit any arbitrary treatment of the accused.

19. *Reichsgericht in Strafsachen*, decisions of February 15, 1899. 37 *Goldammer's Archiv* 166; November 18, 1913, 61 *ibid* 509. April 28, 1919, cited by Loewe, *Die Strafprozessordnung für das Deutsche Reich vom 22 März 1924*, ed. 17 by Werner Rosenberg (1927), p. 601.

Military Government*

By BRIGADIER GENERAL ED. C. BETTS, Theater Judge Advocate, ETOUSA

YOUR knowledge of the mechanics of administering military government in occupied Germany under the authority of the Supreme Commander, Allied Expeditionary Force, is already adequate to the administration of your responsibilities as legal officers of such government; and, I shall not enter upon tedious discussions of those procedures. Rather, I shall confine myself to a discussion of what, for the use of a better term, we shall refer to as the jurisprudence of military government.

As you well know, military government, the law of hostile occupation, connotes the military authority, established and maintained by force of arms, exercised by a belligerent over occupied enemy territory, the inhabitants and property therein. Occupation is a question of fact and is to be distinguished from mere invasion, also from subjugation and conquest. It does not transfer sovereignty but simply the power to exercise full legislative, executive and judicial authority requisite to command responsibility for administering military government in keeping with international common law and treaty obligations—the latter being those found in Section III of Annex to the Hague Convention No. IV of October 18, 1907.¹

Once established, military government endures until the occupying force exercising it is driven out or withdrawn from the territory, or the civil authority of the government of the occupying force or the authority of the vanquished enemy is re-established by (treaty) agreement and takes over in fact. It is not limited, *ipso facto*, by the cessation of hostilities, or even a treaty of peace.²

In the interest of brevity and accuracy let me caution that, except when I speak of Germany as a government I have reference to those parts of Germany coming under control of Supreme Commander, Allied Expeditionary Force—excluding those parts coming under control of our Russian ally.

Neither the Constitution nor the Congress of the United States have placed limitations upon the exercise of authority requisite to such command responsibility—that authority being invoked by military necessity and not by constitutional mandate. Our Supreme Court has stated that such governing authority “may do anything to strengthen itself and weaken the enemy” permitted by international law, common and conventional.³

That military government under the United States may be exercised in varying forms and to differing extents, is clearly illustrated by the unique fact that California was admitted to statehood in the union without having had a territorial form of government. Under military government, established upon seizure of that territory from Mexico, a form of popular government was inaugurated and administered with the aid of local officials and legis-

lators elected by the people under the supervision of the occupying military. This government culminated some 20 years later in the draft of a constitution predicated upon which it was admitted to the union as a state.⁴

The broad outlines within which authority of military government may be exercised have been formalized in the aforementioned Annex to the Hague Convention. These provisions are declaratory of certain responsibilities and limitations upon the authority of the occupying military, and constitute a sort of “Bill of Rights” for the occupied country and its people. America, her allies and Axis enemies, as well as the great majority of the United Nations, are signatories to this Convention. There, it is prescribed that the occupying authority (commander of the occupying military force) having succeeded to the authority of the legitimate power “shall take all measures in his power to restore and ensure, as far as possible, public order and safety.”⁵ Accordingly, command responsibility for the exercise of the authority of military government is an obligation—rather than a mere right the exercise of which the occupying authority may neglect without ensuing responsibility.⁶ Also, it is prescribed in said Annex that the occupying authority shall respect “unless absolutely prevented, the laws in force in the country”⁷—(to which might properly be added) regulating and controlling the rights and property of the inhabitants of the occupied territory. The phrase “unless absolutely prevented” represents an obligation of international law. Nevertheless, international law, which originates in and is deeply imbued with the principles of natural law, does not oblige any military government to respect existing laws that violate basic ideas of justice. An occupying power that conforms with the principles of international law is for that very reason obliged to disallow any municipal law that is contrary to the public order of the international community. Certainly caution must be used to avoid getting into the habit of treating the “totality of modern war as a general license to lawlessness”; but it is essential that in applying the traditional concepts of international law we do so with regard for present and not past conditions.⁸

In speaking of respecting “the laws in force in the country,” it is important to keep in mind that unless the occupying authority so wills it, neither he nor the forces under his command come within the embrace of the laws of the occupied territory for, as has been observed by the Supreme Court of the United States—from the very nature of war the tribunals of the enemy must be without jurisdiction to sit in judgment, in either civil or criminal proceedings, upon the officers and soldiers of the invading army.⁹

As the powers of a government are commensurate with

* An address to United States Legal Officers, Supreme Headquarters, Allied Expeditionary Force, 21 March 1945.

1. Pars 271-275, FM 27-10, War Department Basic Field Manual, *Rules of Land Warfare*; par 1, FM 27-5 (22 Dec 1943), United States Army Manual of *Military Government and Civil Affairs*.
2. *Santiago v. Noguera*, 214 US 260; *Cross v. Harrison*, 16 Howard 164; par 280, FM 27-10, op. cit., supra; Manning, *Law of Nations* (1839), Note 4 at 50.
3. *New Orleans v. Steamship Co.*, 20 Wall. 387.

4. Manning, op. cit., supra, Note 4 at 64.

5. Art 43, Annex to Hague Convention IV of October 18, 1907; par 282, FM 27-10, op. cit., supra.

6. Par 3b, FM 27-5, op. cit., supra; Magoon, *The Law of Civil Government and Martial Law* (1902), p. 11.

7. Par 282, FM 27-10, op. cit., supra.

8. Fraenkel, *Military Occupation and the Rule of War*, pp. 188-189.

9. *Dow v. Johnson*, 100 US 158.

the needs for its existence, the military may employ and utilize such of the established courts and other agencies of the vanquished government, for administering its military government, as it sees fit. Or, it may employ its own tribunals for administering civil and criminal laws in their application to the inhabitants and property in the occupied area; and, such tribunals may be created and their jurisdiction prescribed, enlarged, or diminished at the will of the occupying authority.¹⁰ Such options are matters of right on the part of the commander of the occupying force, and the administrations and practices are upon the unqualified authority of such commander.

The extent to which indigenous authority is to be allowed to function is a matter which it is impossible to determine in advance. The only criterion that can be invoked is that of the necessities of war which justify the substitution of the invader's authority for that of the invaded country. Because the criterion is necessarily vague, or, perhaps more accurately, elastic, the boundaries between the powers exercised by the occupant and those permitted to the indigenous authorities will vary according to the circumstances and the conditions of the occupied country, and, finally and inevitably, according to the occupant's conception of the necessities of war. They will be largely subject, in fact, to his interpretation.¹¹ This position of power in which the occupying authority finds itself is consequently a staggering responsibility, and in carrying out the assignment which has been made to you, you share deeply this power and its accompanying responsibility. In this connection, I think, too, of Colonel Hunt's statement, contained in his report of *American Military Government of Occupied Germany* after World War I:¹²

"An occupying army in a defeated country is making history which is bound to be written"

—and we may add, to its credit or to its embarrassment. I might say at this point, that in those instances in which I shall refer to the Supreme Commander Allied Expeditionary Force or Supreme Headquarters Allied Expeditionary Force, it is realized that at the end of the Supreme Commander's period there will be an assumption of authority by the Control Council and Control Commission. Generally speaking, however, the remarks which I am making will be applicable to the later period as well as to the Supreme Commander's period of responsibility.

The only condition legally requisite to exercising authority of military government over enemy territory is occupation in fact, adequate to the exercise of such authority over the territory occupied by force of arms.¹³ Consequently, you gentlemen who are to exercise the authority of legal officers in the administration of military government over the Supreme Commander's area of control are not concerned with, whether the establishment of such government is preceded by unconditional surrender—either on formal agreement or on complete collapse of the German Government. Were formal agreement requisite—the absence of German representatives capable of or willing to agree should not deprive the Supreme Commander of the lawful right to impose the

victor's will upon the vanquished foe. In such event, it would be proper to deal with Germany as if that which rightfully could have been required of her had been properly agreed by her representatives.

Upon complete collapse of Germany without representatives to enter into an agreement on her behalf, the authority of the Supreme Commander is unsharred by any other recognizable authority in Germany. Under these circumstances, he may deal with the inhabitants and territory of Germany as the assets of a government either unwilling to or incapable of doing those things which may be required of it. Accordingly, he may authorize military government, acting in a role not unlike a receiver in equity or a trustee in bankruptcy, to administer Germany in the interest of peace—the ultimate Allied military objective. And, to this end, the Supreme Commander may exercise authority over and deal with inhabitants and property in Germany as he may require; provided, only, that the requirements are such as a defeated Germany may properly have been forced to accept. Such requirements may be at variance with existing conventions, as for example, termination of prisoner of war status of captured German military personnel.

During the armistice occupation of the Rhineland, following World War I, numerous controversies arose concerning the extent of the powers of the occupants. The question was essentially whether, prior to the effective date of the Peace Treaty, the occupation was a purely "belligerent" one, subject to the broad principles of international law, or whether it was a "contractual occupation," limited by the terms of the Armistice. The Germans were quick to seize upon any theory on which they could contest the authority exercised by the Allied powers, trying at every turn to limit Allied jurisdiction. The German attitude was, in general, that the occupation was not a belligerent occupation and that the occupants could exercise only such powers as were expressly granted in the armistice agreement. And this attitude is reflected in decisions of the German courts.¹⁴ The occupation of Germany which has now begun and which will continue until the entire country has been occupied will be on such an "Unconditional" basis that little opportunity should be afforded for any substantial contention as to the limitations of the powers of the occupants—other than those provided by international law and those specifically included in any agreements that may be entered into. I am sure, however, that you do not underestimate the ingenuity of the German, his determination to exploit any weakness, and that you are prepared to deal promptly with protestations on his part alleging unwarranted assumption of authority by the Allies.

Military Government Courts which exercise the jurisdiction of military government, so far as concerns its punitive application by military tribunals, being only boards of officers established at the will of the commander, governed by no prescribed statutory procedure, may not commit procedural errors divesting jurisdiction nor entitle to acquittal nor the setting aside of a sentence.¹⁵ However, it is properly incumbent upon Military Government Courts that good faith efforts be made to so function as

10. Manning, op. cit., supra, Note 4 at 63.

11. Robin, *Des Occupations Militaires En Dehors Des Occupations De Guerre* (1913), pp. 209-210.

12. *American Military Government of Occupied Germany*, 1918-1920, p. 100.

13. Pars 272, 276, FM 27-10, op. cit., supra; par 1, FM 27-5, op. cit., supra.

14. Fraenkel, op. cit., supra, pp. 183-188.

15. Fairman, *The Law of Martial Rule*, 2d Ed. (1943), par 51; Winthrop, *Military Law and Precedents*, 1920 Reprint, p. 841; Davis, *A Treatise on the Military Law of the United States*, 3d Ed. (1913), Note 19, Ch. XVI.

to serve the best interests of the public, and also, that, as far as prevailing circumstances will permit, the accused be given timely notice of the charge against him and an opportunity to be heard in defense. These essentials are amply provided for in Rules of Military Government Courts, Appendix A, Supreme Headquarters Allied Expeditionary Force *Technical Manual for Legal and Prison Officers*.

The jurisdiction of Military Government Courts extends to all civilians in the occupied territory,¹⁶ and you doubtless will be confronted with cases involving nationals of the United Nations, having serious political implications, which cases will require an awareness on your part to sense the appropriate method of handling such cases—co-ordinating, if necessary, with representatives of the nation or nations involved.

A phase of jurisdiction to be exercised by Military Government Courts, which in all probability will assume considerable importance, is that relating to the trial of war criminals. While no question arises with respect to the exercise of such jurisdiction over offenses committed within the occupied territory, subsequent to the establishment of military government, it is of interest to consider, at this point, the jurisdiction which has been conferred upon Military Government Courts to try War Criminals whose offenses were committed outside the occupied territory, or prior to occupation. The present Supreme Headquarters Allied Expeditionary Force directives on this grant of jurisdiction are so well known to you as to require no reference here.¹⁷

Distinct from such jurisdiction granted by Supreme Headquarters Allied Expeditionary Force is the jurisdiction of military commissions appointed by United States commanders under common law of war authority—which is a command jurisdiction, rather than a territorial one, and, as has been observed by our Judge Advocate General, “is largely determined by the physical custody of the accused or the lack of it.”¹⁸ In the exercise of jurisdiction by such military commissions over a war criminal, there is no challenge to the jurisdiction, either on the element of time or the element of place with relation to occupation.

However, the exercise of jurisdiction by Military Government Courts over offenses committed outside the occupied territory or prior to occupation presents a question, since courts established as a result of occupation and as an agency of the military government normally are concerned only with offenses committed in the occupied territory subsequent to the occupation. In this connection, the question presented is whether their jurisdiction over war crimes might not be limited to offenses committed within occupied territory subsequent to the establishment of military government and the issuance of appropriate proclamations.¹⁹ In addition to the fact that the usual concept of the jurisdiction of a Military Government Court is that such jurisdiction embraces the trial of offenses committed during occupation, limitations on the jurisdiction of such courts may also follow from the fact that in the ordinance creating Military Govern-

ment Courts, jurisdiction may have been limited by place and time requirements (*i.e.*, within the occupied territory subsequent to occupation).²⁰

So far as the armed forces of the United States are concerned, jurisdiction exercised by military commanders in the administration of military government is upon the authority of the President as Commander-in-Chief of the Army and the Navy;²¹ and, as has been said by our Supreme Court, a court established by a Commanding General will be presumed to have been authorized by the President.²² Unquestionably, the Commander-in-Chief, under the common law of war, has authority to establish military commissions to try offenses against the laws and usages of war, and also to establish Military Government Courts as an incident to belligerent occupation—with power to make the jurisdiction of such commissions and Courts concurrent and common as to persons and offenses. It follows, that duly empowered military commanders in this theater may constitute tribunals with authority to act in the dual capacity of a common law of war military commission and a Military Government Court—and utilize such tribunals in the trial of offenses against the laws and usages of war committed prior to occupation or outside the occupied area, as well as those violations of the laws and usages of war committed within the occupied area subsequent to occupation.

Thus, it is believed sound to say, that, regularly constituted Military Government Courts may be empowered to try offenders for offenses properly triable by military commissions appointed under the common law of war by a United States military commander who has properly constituted the Military Government Court; and, that the Military Government Court may be so empowered by such military commander by formal general grant of jurisdiction, by informal special grant of jurisdiction or by the mere reference of charges to trial.

In conclusion, and by way of epitomizing the conditions likely to confront you in Germany, I presume to quote from Fraenkel's *Military Occupation and the Rule of Law*:

“Under modern conditions, no military occupation can completely eliminate the existing administrative agencies and courts. Especially a totalitarian state in dissolution cannot be run exclusively by foreign authorities. Wherever the border-line may be drawn between direct and indirect occupation administration, vast fields of administrative and judicial activities have to be entrusted to controlled local and regional agencies. And control of these agencies is possible only if they are bound by definite rules.

“... occupation of Germany, whether or not it is preceded by an internal revolution, will be confronted with the unique situation of having to deal with a country living under a rule without law . . . A state of siege was declared in Germany on 28 February 1933, and has never been lifted; martial law represents the constitution of the Third Reich. It is unthinkable, however, that two separate bureaucratic hierarchies exercise the powers of martial law on the same territory at the same time. Thus it is essential that the German state of siege be replaced by the martial law of the occupying powers, on the very day on which those powers declare their ultimate responsibility for the preservation of public order inside Germany. This will mean the nullification of all statutes,

16. Supreme Headquarters, Allied Expeditionary Force, Military Government—Germany, Ordinance No 2, par 1, Art II.

17. Par 3, Sec XV, Annex III, Supreme Headquarters Allied Expeditionary Force *Directive for Military Government Prior to Defeat or Surrender*, 9 Nov 1944, as amended 15 Dec 1944. (Other directives not included because of classification.)

18. SPJGW 1943/14218, 30 Oct 1943.

19. Winthrop, *op. cit.*, supra, pp. 836, 837.

20. Supreme Headquarters, Allied Expeditionary Force, Military Government—Germany, Ordinance No 2.

21. *The Grapeshot*, 9 Wall. 129.

22. *Mechanics and Traders Bank v. Union Bank*, 22 Wall 276.

decrees, and orders which have entitled German agencies to act in accordance with a legally unbound discretion; the abolition of all those institutions, such as Gestapo, concentration camps and storm troops, which depend exclusively on the existence of German martial law; and the prohibition of the activities of all other party agencies and of those state agencies that are neither based on nor controlled by law."²³

Finally, because of the extent to which the Nazi ideology has permeated German life at all levels, as has been observed, "there will be an unprecedented vacuum in the social structure after the Nazi party itself and all of its auxiliaries have been dissolved";²⁴ and a careful reconstruction of the responsible groups, including, of course, the judiciary, will be necessary in order to fill this vacuum with a democratic regime. In promoting the growth of such groups, the indigenous state machine must be prevented from arbitrarily interfering with those who are attempting to overcome the heritage of Nazi dictatorship. No German courts are to be opened until you have said they may, and no person is to act as judge, prosecutor, notary, or lawyer without your consent. Thus, the responsibility is essentially yours in passing upon the acceptability of these men and in seeing that once they are permitted to function and the courts are reopened, that they conduct their proceedings in a manner commensurate with the concepts of a normal state and not in a manner bounded only by the so-called "sound instincts" of the Nazi Party.

In meeting these responsibilities, drawing upon my own experience in the administration of military government in Germany during the last war, I suggest that you tell the Germans what you require of them rather than consult them as to what should be required. Not only will such a course not be misunderstood by the Germans, as the converse would be, but, unless your requirements of a German national are ostentatiously mandatory he is placed in the difficult position of seeming to voluntarily collaborate with the occupying power; and, to the extent that he is so regarded by his fellow Germans his usefulness as an agency of the military government is thereby reduced.

★ ★ ★

JUMPING JUDGE ADVOCATE

WITH THE 82nd AIRBORNE DIVISION—Lieutenant Colonel Nicholas E. Allen, Judge Advocate of the 82d Airborne Division, is believed to be the Army's first jumping judge advocate.

Although his job usually is considered strictly "chairborne," Colonel Allen volunteered for jump training and has qualified as a parachutist at the completion of a ten-day jump school conducted in the European Theater.

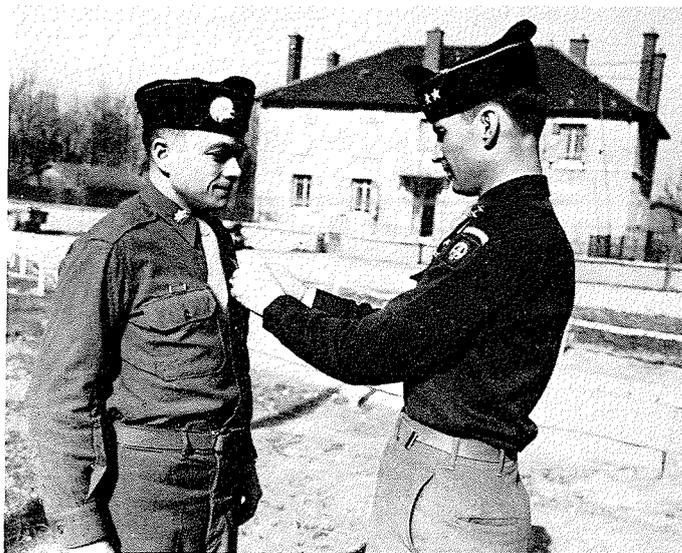
The jump school course included a grueling physical conditioning program, instruction in manipulation of parachute harness and control of a 'chute in the air, and the correct manner of leaving the door of a plane.

During the course, the Colonel made five jumps, two of them with all of the equipment a combat soldier wears when he jumps over enemy territory. He finished the course with a night jump. The Colonel received his jump wings from Major General James M. Gavin, Division Commander of the 82d.

23. Fraenkel, op. cit., supra, pp. 228-229.

24. Ibid, p. 231.

Colonel Allen's wife, Mrs. Adelaide Allen, lives at 188 College Avenue, Staten Island, New York, with their young daughter, Sandra, and her parents, Mr. and Mrs.



82d Airborne Division Photo

Lieutenant Colonel Nicholas E. Allen, 118 College Avenue, Staten Island, New York, judge advocate of the 82d Airborne Division, is pictured (left) receiving his jump wings from Major General James M. Gavin, commanding general of the 82d. He is the Army's first jumping judge advocate.

James Whitford. Colonel Allen is the son of C. Eugene Allen, 3645 Kingsboro Road, Atlanta, Georgia.

Before entering the Army, Colonel Allen was an attorney in the solicitor's office of the United States Department of Labor, in Washington, D. C. The Allens lived at 13 Blackistone Road, Westmoreland Hills, Washington. Colonel Allen was associated with the Labor Department for six years. Prior to that time, he practiced law with Cox and Walburg in Newark, New Jersey.

Colonel Allen entered service as a second lieutenant in April, 1942. He was promoted to first lieutenant in May and to captain in November, 1942. The Colonel was made a major in January, 1944, and lieutenant colonel in December, 1944.

He served in the office of The Judge Advocate General in Washington for a year. He attended The Judge Advocate General Department School for three months in 1943, then served four months in The Judge Advocate General's office with the Third Army at Fort Sam Houston, Texas. Colonel Allen came overseas in January, 1944, and was assigned to the branch office of The Judge Advocate General in England before joining the 82d Airborne Division in August, 1944. He has served with the division in campaigns in Holland, Belgium and Germany.

Colonel Allen received the degree of Bachelor of Science from Princeton University in 1929 and the degree of Bachelor of Laws from Harvard University Law School in 1932. He was born July 24, 1907, in Atlanta, Georgia.

Honor Roll

LEGION OF MERIT

To: *David N. McConnell, Lieutenant Colonel, JAGD, 3507 Rodman Street, N. W., Washington, D. C.*

For: "Outstanding services while Judge Advocate and Provost Marshal of the Ramgarh Training Center for Chinese personnel at Bihar, India, from July, 1942, to June, 1944. He acted as legal adviser to the Chinese Army in India and as chairman of the conference of Chinese, British, Indian and United States Armies on military jurisdiction. He displayed outstanding legal, diplomatic, organizational and training ability which facilitated the harmonious and effective performance of the law enforcement officers of the several armies as well as the work of the civilian authorities. By his untiring efforts in solving the many complex problems, he contributed materially to the success of the war effort in India and Burma."

Colonel McConnell was born in Chester, South Carolina, took his B.S. degree at Davidson College in 1933 and received his LL.B degree from Harvard University in 1939. In 1940 he received an LL.M degree from Georgetown University. Prior to coming on duty he was an attorney with the Bureau of Internal Revenue. He served in the Contracts Division of the Office of The Judge Advocate General. After a tour of duty overseas, he returned to his present assignment with the Office of the Chief of Staff.

To: *Edward H. Young, Colonel, JAGD.*

For: "Exceptionally meritorious conduct in the performance of outstanding service as Commandant of the Judge Advocate General's School from February, 1942, to December, 1944. Without standards or precedents to guide him, he planned, organized and administered a broad course of instruction for the training of 1700 officers and officer candidates as judge advocates. His sagacious planning, zealous leadership and untiring efforts in maintaining the highest educational standards in all phases of military law and military training have provided, at a time of critical need to the Government, a corps of competently trained officers capable of assuming responsible positions as judge advocates in every branch of the service Colonel Young's unremitting devotion to duty in the accomplishment of the training mission assigned to him has contributed much to the administration of military law throughout the Army."

The presentation was made by Lieutenant General A. C. Wedemeyer, Commanding General, United States Forces, China Theater, at the China Theater Headquarters in Chungking.

Born in Milwaukee, Wisconsin, Colonel Young is a graduate of the United States Military Academy, class of 1918. After service in the Infantry, he was detailed in the Judge Advocate General's Department and received his LL.B degree from New York University Law School in 1938. After a tour as Assistant Professor of Law at the Military Academy, Colonel Young served in the Military Affairs Division of The Judge Advocate General's Office. From February, 1942, to December, 1944, he served as the Commandant of the Judge Advocate General's School and during the latter part of his service at Ann Arbor, he was Commanding Officer of all Army Forces at the University of Michigan.

To: *Daniel L. O'Donnell, Colonel, JAGD, 151 Columbian Street, South Weymouth, Massachusetts.*

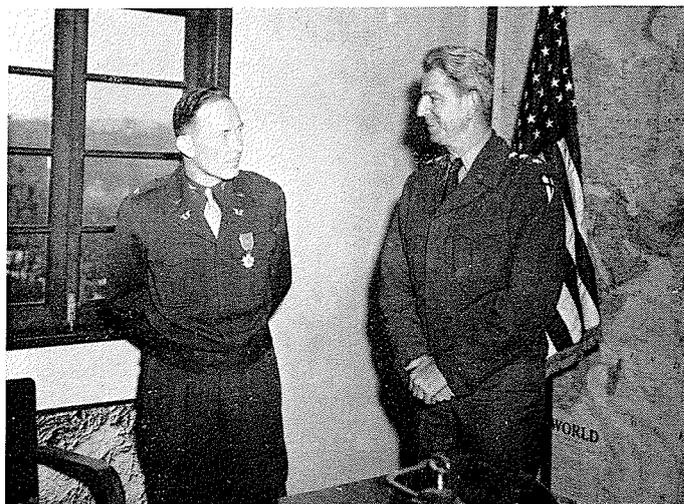
For: Exceptionally meritorious conduct in the performance of outstanding service as Judge Advocate of the First Service Command, from 15 June 1943 to 14 January 1945. During this period the legal problems in the Command were tremendous, primarily due to the establishment of the East Coast Processing Center, Camp Edwards, Mass. Under the guidance of Col. O'Donnell a system was established at this Center, without any precedent as a guide, which enabled an average of 1700 court martial cases per month to be expeditiously investigated, tried and disposed of as required by the War Department. During 1944 Col. O'Donnell made an impressive record in the review of general court martial cases. As legal representative of the Commanding General, First Service Command, he worked with local civil officials of the armed forces, and by his keen intellect, legal ability and spirit of fairness has secured their cooperation and respect. His talent in legal matters is exceptional and the service he rendered was an important contribution to the successful mission of the First Service Command.

Biographical data and the brief citation with respect to Col. O'Donnell's award were published in the March issue of The JOURNAL because the full citation was not available at the time of going to press.—Ed.

BRONZE STAR

To: *Pinckney G. McElwee, Colonel, JAGD, Houston, Texas.*

For: "Meritorious service in direct support of combat operations from 25 April 1944 to 7 May 1945, in North Africa, Italy, France and Germany. As Army Judge Ad-



Col. Edward H. Young, 47, (left), of 2700 Connecticut Avenue, NW, Washington, D.C., Judge Advocate General, USF, China Theater, is congratulated by Lt. Gen. A. C. Wedemeyer, Commanding General, USF, China Theater, after the presentation of the Legion of Merit to Col. Young for outstanding service as Commandant of the Judge Advocate General's School in Ann Arbor, Michigan, from February 1942 to December 1944. The award took place at Gen. Wedemeyer's Headquarters in Chungking, China.

vocate, Colonel McElwee has outstandingly supervised and directed the complex and various activities of the Judge Advocate Section. He has maintained close supervision of the Judge Advocates in this command and has actively engaged in assisting them in the efficient administration of their military justice problems. His constant check of every phase of work coming in and going out of this office, his conscientious attention to responsibility and his superior performance of duty has been responsible for the efficient functioning of the Judge Advocate Section."

Colonel McElwee was born in St. Louis, Missouri and educated at Washington University in that city from which he received his Bachelor of Laws degree in 1922. A resident of Houston, Texas, he engaged in general practice from 1922 until 1940 in the states of Missouri, Texas and Kansas. After entering upon active duty he was initially assigned as Assistant Judge Advocate of the Eighth Corps Area, later as Judge Advocate of the Second Division, then as Judge Advocate of the Fourth Corps and finally as Judge Advocate of the Seventh Army, his present assignment.

To: Frank Brockus, Major, JAGD, Kansas City, Missouri.

For: "Meritorious achievement in the performance of outstanding services from November 12, 1943, to February 1, 1945, in the administration of military justice in the Eighth Air Force."

A graduate of Westport High School, Kansas City, in 1927, and the University of Kansas City Law School in 1931, Major Brockus practiced law in Kansas City before entering the Army in July, 1942. He was commissioned a second lieutenant August 28, 1943, two months before coming to England where he now serves as Assistant Judge Advocate of the Eighth Air Force. Major Brockus is a member of the Kansas City, Missouri State, and American Bar associations.



Photo by Signal Corps, U. S. Army

Major Frank Brockus receives the Bronze Star.

To: Ralph E. Becker, Captain, JAGD, 44 LaFayette Drive, Port Chester, New York.

For: "Meritorious achievement and service during the period 15 June 1944 to 13 November 1944 in France, Belgium, Holland and Germany, where Captain Becker was of invaluable assistance to the division judge advocate in the handling of the numerous and intricate legal problems facing a division engaged in combat."

Captain Becker received his LL.B degree from St. John's College, School of Law, was thereafter admitted to the New York Bar and engaged in general practice in New York City. A graduate of the Judge Advocate General's Officers' Candidate School, Captain Becker served as the Assistant Staff Judge Advocate of various infantry divisions before going overseas with this present organization, the 30th Division.

PURPLE HEART

To: J. Herbert Burke, Captain, JAGD, 139 W. 76th Street, Chicago, Illinois.

For: Wounds received in action in France.

Captain Burke graduated from the Chicago College of Law in 1940, receiving his LL.B degree at that time. He was admitted to the Illinois Bar in the same year and engaged in general practice in Chicago for two years prior to entering service. A graduate of the Judge Advocate General's Officers' Candidate School, Captain Burke served from the time he was commissioned as Assistant Judge Advocate of the 90th Division.

To: Charles C. Young, Lieutenant Colonel, JAGD, 1728 Ivanhoe Street, Denver, Colorado.

For: Wounds received in action at Luzon Province, Philippine Islands on 4 February 1945.

A graduate of the University of Colorado from which he received his A.B. degree in 1924 and Denver University from which he received his LL.B degree in 1926, Colonel Young engaged in general practice in Denver, Colorado, from 1926 to 1942. During this time he served one year as Assistant State Attorney General. Colonel Young has been Judge Advocate of the First Cavalry Division since 1940.

RUSSIAN ORDER OF THE WAR FOR THE FATHERLAND

To: Ernest M. Brannon, Colonel, JAGD, 3612 Ingo-mar Place, N. W., Washington, D. C.

Colonel Brannon received the Russian Order of the War for the Fatherland, Second Class, for services rendered while on duty as the Judge Advocate of the First Army. A graduate of the United States Military Academy in the Class of 1918, Colonel Brannon received his LL.B degree from Columbia Law School in 1931. Thereafter he attended the Army Industrial College in 1934. Colonel Brannon has had many assignments both in and out of the Washington office, the most recent of which in the Washington office found him as Contracts Coordinator and Chief of the Contracts and Tax Divisions. Thereafter he served overseas with the First Army as Judge Advocate for that unit.

(Continued on Page 45)

One Hundred Seventy Years of Service[†]

SATURDAY, the 29th of July was a sultry summer day in Philadelphia back in 1775¹ when the delegates to the Continental Congress filed into Carpenter Hall to take up the business of the day where they had left off after adjournment on Friday. The first item of business was the matter of pay for the Continental Army. As they sat perspiring in the hot meeting room struggling over this problem, the speakers had to raise their voices above the noise of carts clattering over the cobblestone streets outside. Having settled the question of pay, the delegates turned to other business and, as recorded by Charles Thomson who kept the Journals of the Continental Congress, "William Tudor, Esqr., was elected Judge Advocate of the army." Thus was the Judge Advocate General's Department founded 170 years ago.

The following day, July 30, 1775, General Washington from his headquarters at Cambridge, issued a general order in which, first noting the appointment of Mr. Tudor as Judge Advocate of the Continental Army, he directed that "he is in all things relative to his office to be acknowledged and obey'd as such."

William Tudor, American born, was 25 years old when he assumed his duties as Judge Advocate. Graduated from Harvard College in 1769, admitted to the bar in 1772, he had practiced law for 3 years in Boston when he received his appointment. On August 10, 1776, Congress accorded him the title of Judge Advocate General with the rank of lieutenant colonel in the Army of the United States. Colonel Tudor continued in service as Judge Advocate General until April 9, 1777.

During the Revolutionary War the Department consisted of 15 judge advocates, not all of whom served at the same time. Destined to become the most famous of this group was Captain John Marshall of the 15th Virginia Regiment, best remembered by historians and lawyers alike as Chief Justice of the United States Supreme Court from 1801 to 1835.

The Department was revived in preparation for the War of 1812 when tables of organization were set up authorizing judge advocates in varying numbers for each division. This program of wartime expansion was such that under it the Department numbered 16 judge advocates. With the advent of peace in 1815 the division judge advocates were assigned to duty with the territorial divisions and departments. In 1821 the Army was whittled down again and the office of Judge Advocate eliminated. From that time until 1849 there was no full time statutory judge advocate.

In 1849 an act of Congress authorized the President of the United States to detail a captain as Judge Advocate of the Army with the brevet rank and pay of a major of cavalry. Captain John Fitzgerald Lee, a graduate of West Point, class of 1830, variously artilleryman, ordnance officer, and Indian fighter, was appointed Judge Advocate under this legislation.

In July 1862 President Lincoln, hard-pressed to find a commander who could fight and win, brought Major General Henry W. Halleck to Washington to replace the

cautious General McClellan by this time unsuccessfully campaigning in the Peninsula. As commander of the Department of the Missouri, General Halleck had tried certain persons by military commission who were suspected of aiding the Confederacy. Major Lee held that these commissions were without jurisdiction. Whether because General Halleck desired a free hand as General-in-Chief or by coincidence, shortly after he assumed command Congress legislated Major Lee out of his job by reviving the office of Judge Advocate General of the Army. Done with the wars, Major Lee retired to his farm in Maryland.

Colonel Joseph P. Holt, the first incumbent under this revival of the Revolutionary wartime office and the fourth Judge Advocate General since the Colonial period, was a native of the District of Columbia, a former Postmaster General and Secretary of War. He served with distinction for 13 years, having been promoted to a brigadier general when the office of Judge Advocate General was raised to that rank in 1864 and retired as a brevet major general.

Prior to 1862, Presidential confirmation was not required of any sentence in time of war except sentences pertaining to general officers. In 1862, Congress provided that no sentence involving death or penitentiary confinement should be executed until approved by the President, thereby increasing not only the duties but also the importance of the Judge Advocate General.

During the Civil War the Department consisted of 33 officers. With the customary postwar contraction it was pared to a quarter of its Civil War strength and with minor changes so served out the balance of the 19th century until the war with Spain when it was expanded to 19 officers.

Spanning nearly the last third of the 19th century were the activities of one of the most notable figures of the Department, Colonel William Winthrop, Assistant Judge Advocate General, whose monumental work, "Military Law and Precedents," compiled in 1886, is of such continuing value to judge advocates today that reprints were necessary as late as 1942.

Major General Enoch H. Crowder, Missourian, West Pointer and cavalry officer, appointed Judge Advocate General in 1911, served as the titular head of the Department during World War I although his duties as Provost Marshal General (comparable to the Director of Selective Service of World War II) to which he was appointed in 1917 kept him away from his desk most of the time. Brigadier General Samuel T. Ansell, now a member of the District of Columbia Bar, served as Acting Judge Advocate General.

The Department entered World War I with 17 officers, underwent a considerable expansion and by the end of 1918 numbered 426 officers. The first World War saw considerable activity in military justice matters. In 1916 the Articles of War were revised under the supervision of General Crowder. In 1917 the first "Manual for Courts-Martial" based on the newly revised 1916 Articles was published. Famous General Order No. 7, requiring the suspension of the execution of sentences of death, dismissal and dishonorable discharge until reviewed by the Judge Advocate General was issued in January 1918 to cure the lack of appellate review inherent in the 1916 Articles of War. World War I taught much about mili-

[†] Largely a condensation of Major William F. Fratcher's history of the Department appearing in Vol. I, No. 1 of the JOURNAL. Indebtedness to Major Fratcher is gratefully acknowledged.

1. Roger Sherman, delegate from Connecticut, wrote a letter to his wife on Friday, July 28, 1775, in which he said that it was so hot in Philadelphia that he wished the Congress would adjourn.



HEADQUARTERS, ARMY SERVICE FORCES
OFFICE OF THE JUDGE ADVOCATE GENERAL
WASHINGTON 25, D. C.



To All Judge Advocates:

As we mark the 170th anniversary of the founding of the Judge Advocate General's Department I send to each of you my personal greeting and express my sincere appreciation of your service in the Corps.

From the time of its establishment before the Revolutionary War to the present conflict this Department has served our country well in war and peace. In order to discharge the obligations placed upon us in this war we have created an organization which has increased from about 100 to over 2600 officers and dwarfs in size that of World War I. To each of you, as a member of that organization, I say that I feel we have thus far discharged these obligations in the best traditions of the Department.

But while we may find satisfaction in our performance to date, we cannot pause in our work, for it is not done. And it will not be done until final victory is won. Until that time we must stay on the job giving to it the best we have. Our record of service thus far must spur us to greater service in the days ahead.

Very sincerely yours,

A handwritten signature in cursive script that reads "Myron C. Cramer".

MYRON C. CRAMER
Major General
The Judge Advocate General

tary justice and the lessons learned were embodied in the 1920 revision of the Articles of War drafted largely on the basis of suggestions made by General Crowder.

Numbered among Department alumni of World War I who achieved subsequent prominence in educational and public affairs were Colonels Edmund M. Morgan and Eugene Wambaugh of the Harvard Law School faculty, Colonel Edwin R. Keedy of the University of Pennsylvania Law School faculty and dean during World War II, Colonel John H. Wigmore, Dean of Northwestern University Law School and authority on the law of evidence, Lieutenant Colonel Patrick J. Hurley, later Secretary of War and now Ambassador to China, Major Felix Frankfurter, now Associate Justice of the United States Supreme Court and Major Henry L. Stimson, present Secretary of War who served as both Judge Advocate and line officer during World War I.

Major General Allen W. Gullion took office as the seventeenth Judge Advocate General December 1, 1937, and served during the feverish pre-Pearl Harbor days. On July 1, 1940, there were 105 officers on duty in the Department; a year later the number was nearly twice that and in five years was to exceed the then unheard of number of 2600. General Gullion's term expired Monday, the 1st of December, 1941. He was to continue as The Provost Marshal General and so that Monday morning was sworn in as a temporary major general by Colonel Myron C. Cramer, Chief of the Contracts Division of The Judge Advocate General's Office. General Gullion in turn administered the oath of office to Colonel Cramer and he became the eighteenth Judge Advocate General. Six days later the Japanese struck at Pearl Harbor. It became General Cramer's task to head the Department during this country's grimmest and mightiest struggle.

CONGRATULATORY MESSAGES RECEIVED AS THE DEPARTMENT ENTERED ITS 171st YEAR

GENERAL CRAMER RECEIVED THE FOLLOWING LETTERS OF CONGRATULATIONS:

OFFICE OF THE UNDER SECRETARY OF WAR
WASHINGTON 25, D. C.

19 July 1945

My dear General Cramer:

It is with great pleasure that I extend to you and the members of your entire organization my congratulations upon the 170th Anniversary of the establishment of The Judge Advocate General's Department.

Since July 29, 1775, and the days of the Continental Army, your Department has served as the legal arm of the War Department and the United States Army with honor and distinction. During this war it has maintained its high standards of performance despite the extraordinary difficult task of administering military justice and handling legal problems for all branches of the military establishment throughout the world.

You and the members of your staff have constantly borne in mind the fact that military discipline must be administered in a manner which does justice to the Army and to the individual. This has required painstaking and conscientious work which is reflected in the fine record that has been made. Through our close association during the past years, I can attest that your administration has been a wise one guided by a fine sense of justice.

I want to express through you my appreciation and commendation to the members of your Department for the splendid services they have performed both in the field of military justice and in the other activities of your Department.

Sincerely yours,

ROBERT P. PATTERSON
Under Secretary of War

ARMY SERVICE FORCES

OFFICE OF THE COMMANDING GENERAL
WASHINGTON 25, D. C.

12 July 1945

Major General Myron C. Cramer
The Judge Advocate General
Room 2048, Munitions Building
Washington 25, D. C.

Dear General Cramer:

As the anniversary of the Judge Advocate General's Department approaches I wish to congratulate you, your officers, and your employees for your fine past record and outstanding present performance.

In the nearly one hundred and seventy years that your Department has been in existence, it has developed the administration of military justice to its present high level of fairness and efficiency. This work is being well done at this time despite great difficulties in the way of geographical distances, international complications and an unprecedented workload. To accomplish so much under these circumstances is, I feel, just cause for pride by every member of your organization.

With best wishes for the continued success of the Department, I am

Sincerely,

BREHON SOMERVELL
General, Commanding

Judge Advocate General's OFFICE ENTERS ITS 171st YEAR

By GEORGE SANFORD HOLMES*

PROMPTLY at 11 o'clock every Monday morning a score or more officers gather in the office of Major General Myron C. Cramer, The Judge Advocate General of the U. S. Army, Munitions Building, Washington, D. C.

It is staff conference time—but this is no ordinary conference. It might more aptly be called a legal clinic.

All members of the group are lawyers, some of them legal officers of long experience in the Regular Army, others more recently successful attorneys in civil life who have abandoned their private law practices in order to serve their country. Nearly all are veterans of World War I and are in uniform for the second time.

These men are in charge of the various boards of review and divisions of the Judge Advocate General's Department, the senior members on the home front of the largest law firm in the world. On these professional experts, all of whom are authorities in their special fields and have been hand-picked by the Judge Advocate General for the job, General Cramer, as head of the firm, depends for the efficient administration of the legal affairs of the War Department and an Army of more than eight million men and women.

The weekly staff conference is no perfunctory discussion of office routine. A summary is prepared for every meeting of the most important legal problems and opinions occurring during the preceding week. These are explained in detail by the chiefs of the respective divisions contributing to the summary and are subjected to the critical comment of the group. No holds are barred by General Cramer and the debates are often as spirited as arguments between opposing counsel in a court room.

One case may involve an important decision in military justice; another may present a knotty question in international law and its relationship to the Geneva Conventions; another may have to do with the settlement of foreign claims, or a tax opinion saving the Government large sums of money, or a patent action affecting the Government's rights to certain royalties, and so on. Into this weekly hopper are "pitched" typical examples of the work of each division or branch and thus a continuous and close-up scrutiny is obtained by General Cramer and the ranking members of his headquarters staff of the activities of the entire Department.

To complete this picture of the global operations of the Judge Advocate General's Department in World War II, first-hand reports of the problems and experiences encountered in the various theaters of operation are provided these weekly staff conferences by judge advocates returning from foreign service. In this manner the realities of a judge advocate's job in the sprawling South Pacific, where 1000-mile hops by air are a routine performance, or in the heart of congested Europe, where millions of soldiers have been concentrated in a small area, are brought into proper perspective to theory and principle and the printed pages of the Articles of War.

That this spirit of cooperation and coordination promoted by General Cramer, both within and without the

Judge Advocate General's Department, has proved vitally effective in the success of the Department as legal adviser to the Army in the greatest war in our history, is obvious from the results attained. The door of the office of the Judge Advocate General is never closed during business hours. It is open to all who wish to consult him on matters pertaining to the Judge Advocate General's Department, whether they refer to questions of highest policy or the individual fate of a convicted soldier. And it need hardly be added that the open door stands for an open mind.

The motto of the present Judge Advocate General is "Service." Its exemplification begins at the top and permeates all units of the far-flung organization. From the moment a new judge advocate enters the Department it is impressed upon him that he is a member of a "service organization" within the broadest meaning of the term. Mistakes in judgment now and then are to be expected but discourtesy and the "brush-off" are cardinal offenses under the Cramer regime in the Office of The Judge Advocate General.

It is in this atmosphere that the work of the Department has been carried on during a period in which it has experienced the greatest increase in commissioned personnel and the largest expansion of responsibilities and operations in its 170 years of existence.

This expansion in working force and departmental functions has affected all regular units of the organization and has brought about the creation of activities never before performed by the Department. Besides carrying out in increased measure the customary duties associated with the old line divisions, the Judge Advocate General's Department during this war has added such responsibilities as the pursuit of war criminals and the collection of evidence on which to base trials; the operation of an officer candidate school and advanced courses for commissioned personnel; and the dispensing of legal assistance in private matters, in collaboration with bar associations, to members of the military forces. Important new services occasioned by the production and procurement phases of the present conflict have also been rendered by the assignment of judge advocates as legal aids to Army officers who have been directed to take over and manage strike-bound war plants.

Until May 8, 1945, the Judge Advocate General's Department, like all other war agencies of the Government, was concerned with the necessity, in its own field, of servicing a two-front war. The end of hostilities on the European continent, however, has brought it no reduction in duties or personnel. The experience after the armistice in the last war proved that disciplinary and morale problems do not subside after the fighting stops. Under present conditions, the Army not only is waging a full-scale war of increasing magnitude in the Pacific but must wrestle at the same time with the serious problems inherent in the occupation of a large slice of Germany and the redeployment and partial demobilization of an army of over eight million men. As reflected in the administration of military justice, the settlement of war claims, the termination of war contracts and the

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providing of legal assistance to military personnel before transfer to the Pacific Theater or discharge from the Army, these problems are of direct and vital concern to the Judge Advocate General's Department and will raise rather than lower its work load to a substantial degree.

On 1 July 1940 there were but 87 officers on active duty in the JAGD, all of whom, with the exception of two reserve officers, were members of the Regular Army. Following the Emergency Proclamation, the officer personnel increased to meet the needs of the rapidly growing Army and numbered 407 at the outbreak of war on 7 December 1941. Since Pearl Harbor the number of commissioned officers in the Judge Advocate General's Department has increased to nearly 2600, constituting the largest commissioned personnel in its annals.

As a result of the global nature of the war and the widespread distribution of American forces, judge advocates are now serving in all parts of the world. They are engaged in counseling and advising commanding officers in all legal matters, administering military justice, settling war claims against the United States, investigating war crimes and reports of atrocities against American servicemen and nationals, acting as members of boards of review, etc.

In order to facilitate the business of the Department, Branch Offices have been established in the various theaters of operation and are now functioning in the European Theater, the Mediterranean Theater, the India-Burma Theater and with the United States forces in the Pacific. At these Branch Offices judge advocates are constantly examining all records of trial by general courts-martial for the purpose of insuring a fair trial to every defendant in accordance with the established principles of U. S. military law.

As now organized the Judge Advocate General's Office in Washington comprises the following principal units: Military Justice Division, Military Affairs Division, Military Personnel and Training Division, Military Reservations Division, Claims Division, Contracts Division, International Law Division, Litigation Division, Patents Division, War Crimes Office, five Boards of Review and two Branches—the Legal Assistance Branch and the Planning Branch.

The amount of business transacted daily by these headquarters units as a natural consequence of the size of the Army and the scope of the war exceeds all previous experience in the Department. This is especially true of the Military Justice Division and Boards of Review, the Claims Division and the Legal Assistance Branch.

Because of the heavy increase in the volume of business handled by the Claims Division, General Cramer established a new Branch Office on June 1, 1945, located at the Holabird Signal Corps Depot, Baltimore, Maryland. This is the first time in the history of the Department that a Branch Office has been created in continental United States. The office was instituted for the purpose of processing all claims filed in the United States under the terms of the newly-amended legislation covering military personnel claims.

The chief single function of the Judge Advocate General's Department, however, as in every war, is the administration of military justice and in this activity, both in the field and in the Office of the Judge Advocate General in Washington, all past records of the Department are small in comparison to those established in the present conflict.

Military Justice

In the administration of Military Justice the Judge Advocate General's Department under General Cramer has set new marks and new standards resulting not only from the logical increase in the volume of disciplinary actions but from the modern and enlightened views held by The Judge Advocate General upon the subject of military courts and military penology.

This perspective has extended beyond the mere technical procedures of military tribunals to the spirit in which military justice is administered and to the treatment of convicted offenders and efforts to restore them to self respect and duty. Because of his interest in the fate of the men serving court-martial sentences, General Cramer was one of the first to advocate the creation of rehabilitation centers for the salvaging of human material. Largely due to his efforts, these centers were established. According to a recent statement by the Hon. Robert P. Patterson, Under Secretary of War, nearly one full division of fighting men has thus far been restored to full military status and service by these remedial institutions.

At the request of Under Secretary Patterson periodic scrutiny of the rehabilitation centers, both here and abroad, is made by the Judge Advocate General's Department for the purpose of seeing that they are maintained at highest standards of efficiency and with uniformity of operation. The promotion of the program of rehabilitation by The Judge Advocate General marks one of the most advanced steps ever taken in the development of the Army system of military justice. As a result of its process of reclamation, not a few of the men restored to duty have distinguished themselves in combat and have been decorated for bravery.

General Cramer has been equally emphatic on the subject of impartial trials and the equalization of justice. He has stressed the fact that there should be uniformity of sentences for similar offenses committed under similar conditions, no matter where the offenses take place and that too severe sentences, out of balance with the nature of the acts committed, are detrimental to the whole system of military law. Speaking on this subject recently before a class of newly-commissioned judge advocates he said:

"Let me advise you, above all else, if your duties call you to the field, where you will help administer military justice, that there is no substitute for conservative judgment and plain commonsense in the handling of courts martial.

"Bear in mind that excessive and fantastic sentences defeat their own ends and bring the whole system of military justice into disrepute. The review procedure in the Army was established, of course, to safeguard the interests of the accused and to equalize justice; but just because it acts as a check and double-check upon penalties out of line with the nature of the offenses committed, do not entertain the notion that it was designed to permit courts to impose maximum penalties in the knowledge that some one else would review them and reduce them to a reasonable and realistic basis.

"You can be of no greater aid to your commanding officer and to the members of a court, than by educating them to the fact that sentences that are ridiculous in their severity tend to destroy the confidence of the enlisted man and the public in the efficacy and fairness of American military justice."

Indicative of the large volume of work now passing through the Military Justice Division in the Washington

office are the figures covering the period of the last fiscal year, ending June 30, 1945. During that time the Division examined 19,848 court-martial records of trial, checked 30,646 court-martial orders, wrote 4,410 miscellaneous opinions and handled over 5,000 clemency cases. In collaboration with the Judge Advocate General's School, the Division also compiled and wrote the Manual on Military Justice Procedure which was published and distributed throughout the Army in February, 1945.

During this period final action was taken by the Assistant Judge Advocate General in Charge of Military Justice Matters on 2,996 enlisted men's cases. In addition, 527 officer cases were reviewed and prepared for final action by the confirming authority. The work load for the first six months of this period was more than double the work in the same type of cases handled by the Assistant Judge Advocate General for the entire year of 1942. In addition, this same office handled 494 miscellaneous matters which included military justice opinions, requests for general court-martial jurisdiction and the initiation and approval of major policies affecting Military Justice.

Positive action was also taken by way of numerous recommendations to reviewing authorities and by instruction to staff judge advocates in the field to equalize sentences where possible. Action was also initiated in certain overseas cases to correct and adjust the action taken in foreign theaters. Since the beginning of the emergency, over 60,000 records of general court-martial trials have been examined by the five Headquarters Boards of Review.

The system of military justice as administered in the field by members of the Judge Advocate General's Department was the subject of a press conference held early in July by Under Secretary of War Patterson, at which he expressed pride in the fine record of conduct made by American troops. The Under Secretary explained the principles and procedures of the court-martial system and the numerous safeguards provided by the Articles of War as enacted by the Congress, for the protection of the rights and welfare of accused military personnel. In a prepared statement accompanying his discussion of military justice he said:

"Most men make the transition to Army life without incident. Some do not and find themselves in trouble. Many of these would have run afoul of the law if they had remained civilians. In peacetime, 80 percent of men sentenced to federal and state institutions for felony were between 18 and 40—the age from which the Army draws its men.

"It is a matter of mathematical certainty that from any group of eight million young men in civilian life, a certain number will commit crimes ranging from simple misdemeanors to rape and murder. In an Army during wartime these men are exposed to stresses and hazards not encountered in civilian peacetime existence.

"It is not surprising, therefore, that last year in the United States approximately 18,000 soldiers were convicted by general courts-martial or that 33,519 soldiers are now in confinement here and overseas under sentences of general courts-martial. This, it should be remembered, represents the total number from the ten million men who have joined the Army since the Selective Service Act was passed in 1940. It also includes a few still serving under sentences prior to 1940.

"General Eisenhower has just reported on the record of the troops who have served in the European Theater of Operations from January 1942, when the first American troops arrived overseas, until June 1, 1945. In this period 4,182,261 American soldiers served in his theater. Of this

number only 10,289—or less than 1 in 400—were sentenced to confinement by general courts-martial. In reporting these figures, General Eisenhower stated that the administration of military justice 'receives my constant personal care.' He added that 'particularly in the serious cases in which I am called upon for personal review, I give a tremendous amount of time and thought.'

"This record is a tribute to the men who have gone through the greatest military campaign in history and evidence of their fine training and leadership.

"In most states, extreme crimes of murder or rape are punishable by death. Before the war, about 150 men a year, convicted in civilian courts for rape or murder, were executed in this country. Like civilian courts, military courts may direct the death sentence for extreme crimes. During the entire length of this war, the Army has executed 102 of its soldiers. All executions but one were for murder or rape. One was for desertion, the first execution for a purely military crime since the Civil War. This man, serving in the European Theater, deserted twice under fire."

Mr. Patterson pointed out that for the Army as a whole, about 60 percent of those convicted by general courts-martial had committed military offenses. The remaining 40 percent were crimes punishable under civilian law. Commenting in terms of high praise regarding the constructive work being done at the rehabilitation centers, he stated that the breakdown at a typical rehabilitation center shows that 82 percent of the men are serving time for military offenses and 18 percent for civilian offenses. Of the offenders against military law, 47 percent were guilty of absence without leave, 18 percent for desertion and 17 percent for other military infractions.

From December, 1942 to June, 1945, said the Under Secretary, 31,131 admissions had been made at rehabilitation centers. Of this number 23,674 had been transferred and of this latter number 12,206, or more than one-half, had been returned to duty, 8,370, or one-third, had been sent to disciplinary barracks, and 3,098 had received dishonorable, medical or other type of discharge. The remainder, 7,457, who are now in confinement, are undergoing training with the likelihood that half will be returned to duty.

Discussing the record of the Army in the European Theater, and the fact that since 1942 only one man in 400 had been sentenced by general courts-martial, Mr. Patterson stated that of the 10,289 sentenced, 2,335 have already been restored to duty, 2,807 have been returned to the United States for confinement and further opportunity for rehabilitation, and the remaining 5,147 are being screened in the theater for restoration to duty or confinement in the United States.

Secretary Patterson also explained the function of the Clemency Board, on which the Judge Advocate General's Office is represented, and which he recently appointed to assist him in the duty of exercising clemency in the cases of men serving time in disciplinary barracks, federal penitentiaries and reformatories. In concluding his exposition of the workings of the military justice system he said:

"The Army has been confronted with the unprecedented task of administering military justice throughout the world to the ten million men who have joined it in the present emergency.

"The Articles of War laid down by Congress are its authority for so doing. They provide the means for enforcing discipline with safeguards to the accused, who is assured a speedy and fair trial.

"It is the Army's purpose to restore as soon as possible all those convicted who give indication of their ability to

again become soldiers. To accomplish this the Army utilizes the most approved and modern methods. It is proud of its record of accomplishment. It will continue to do everything within its power to administer a fair and just system of military justice."

Settlement of Claims

The activities of the Claims Division offer further evidence of the increased duties of the Judge Advocate General's Department in World War II.

Approximately 66,000 items were processed by the Division between June 30, 1944 and July 1, 1945, in addition to its administrative task of supervising the processing of some 60,000 claims in the field by delegated posts, service commands, and foreign claims commissions. Overseas many thousands of claims, pursuant to negotiations initiated by The Judge Advocate General, were, after initial investigations, turned over to foreign governments for completion of processing and payment as Reciprocal Aid.

Study was also given to the many claims problems arising from our reoccupation of the Philippines and there was sponsored by the Division a bill to amend the Foreign Claims Act so as to make it applicable to the Philippines. Action was also taken to collect all available information within the War Department pertaining to possible claims against the United States arising out of military activities in the Philippines during the early stages of the war.

One of the high spots in the year's activities was the signing by the President, on May 29, 1945, of the Military Personnel Claims Act of 1945 (P. L. 67, 79th Congress). This Act, sponsored by the Division, greatly liberalized the provisions for the payment of claims of military personnel and civilian employees for property damaged, lost, destroyed, captured or abandoned, incident to service and corrected many inequities to be found in the old act. It was in anticipation of the presentation of some 60,000 to 80,000 claims under this act by returned prisoners of war and by military personnel redeployed from the European Theater of Operations to the Pacific, that the Personnel Claims Branch was transferred to the newly-established Branch Office at Baltimore.

All indications point to an increase rather than decrease in the volume of claims during the forthcoming year. The Division remains constantly in touch with claims activities in the field and devotes considerable time to the supervision, technical training, and inspection of field installations, including foreign theaters of operations.

Legal Assistance

In the belief that a soldier serves best when his mind is at rest in regard to the welfare of his family at home, General Cramer instituted a legal assistance program on an Army-wide scale in February, 1943, available to all enlisted and commissioned military personnel.

The program was established in cooperation with the American Bar Association and other similar law bodies to afford servicemen and their dependents adequate advice and counsel in their private legal affairs. A Legal Assistance Branch was set up in the Office of the Judge Advocate General in Washington through which General Cramer exercises general supervision of the plan throughout the Army.

Since the creation of the agency, approximately 6,000,000 cases have been handled in the field and in Wash-

ington up to July 1, 1945. During the last year alone, from June 30, 1944 to July 1, 1945, the Department, through the Headquarters Branch and approximately 1500 legal assistance offices now in operation throughout the world, has provided legal counsel in over three and one-half million cases.

These offices have been assisted in the work by some 27,000 volunteer civilian lawyers who are cooperating through the American, State, District of Columbia and local Bar Associations and the Legal Aid Associations of the nation. These civilian lawyers have been of inestimable benefit to the carrying out of the plan and to the thousands of servicemen and their dependents who have availed themselves of the services.

"It cannot be doubted," said General Cramer in an address before the New Jersey State Bar Association on June 9, 1945, "that the lawyers, both military and civilian, have magnificently aided servicemen and their dependents with their personal legal problems. The legal profession can take great pride in this accomplishment and its contribution to morale and the war effort in general."

General Cramer stated further that a breakdown of the cases already processed shows that approximately 28 percent related to tax matters, mostly of an income tax nature, 23 percent concerned powers of attorney, 22 percent involved the drawing of wills, 21 percent miscellaneous matters of great variety, and only 6 percent the adjustment of domestic relations problems. The work of the offices in the field, he explained, is directly supervised by the Staff Judge Advocates of the various commands under the broad supervision of his own office.

In carrying on the work, the Legal Assistance Branch in Washington has maintained close relationship and collaboration with the officials of the American Bar Association and like organizations and with the Office of the Judge Advocate of the Navy, in coordinating the legal assistance operations of the Army, Navy and civilian bar.

Monthly memoranda to Legal Assistance Officers throughout the Army, to guide them in the performance of their duties, have been prepared and issued by the Legal Assistance Branch. It has also initiated and processed, through the Council of State Governments, remedial legislation of benefit to servicemen and their families and no small degree of success has been attained in obtaining action by the legislatures of several States which have been in session during the past year.

An increase in the work of this Branch is expected as a result of redeployment and demobilization. In commenting upon further service of this nature to the serviceman by The Judge Advocate General's Office, General Cramer says:

"I believe that the volume and complexity of legal assistance activities are bound to increase in the coming months and even greater effort will be required by all concerned in carrying on this work. There can be no doubt that the millions of servicemen until recently engaged in combat in the European theater have a tremendous backlog of personal legal problems that they were unable to attend to under combat conditions. V-E Day has released this impediment and, consequently, we can expect soon a flood of requests from these men for assistance.

"The Army is vitally interested in assisting the soldier in every possible way in his transition back to civilian life, and in knowing what facilities there will be available for him to obtain needed legal advice and assistance during that period so that he can be advised thereof on his separa-

tion from the service. In other words, we will give him all the legal assistance we can before he leaves the service, and will tell him where and what kind of help he can get after separation as soon as the policies of the many bar organizations are made known to us in this regard.

"Thus it appears that the lawyer will continue to find plenty of opportunity for service in providing legal assistance for those in the armed forces and their dependents, and in helping veterans with their legal problems or in otherwise aiding them in their adjustment to civilian life. I am confident that the bar will not be found wanting in providing these services as long as the needs exist, to the end not only that the war effort will be vigorously supported until final victory, but also that the adjustment problems of the peace will be adequately solved."

Legal Officers in Plant Seizures

In one of its little known and least publicized functions The Judge Advocate General's Office has rendered services in this war for which no counterpart is to be found in the past. This activity concerns the planning of legal procedures for War Department emergency operation of plants and industrial facilities seized by the Government under Executive orders as a result of actual or threatened interruption of production due to labor disturbances. This responsibility has been under the personal direction of Brigadier General Thomas H. Green, Deputy Judge Advocate General.

In this work, the Judge Advocate General's Department has assisted in the preparation of such Executive orders and, in the case of each seizure, personnel of the office have been assigned as legal advisers to the War Department representative responsible for the conduct of the operation.

During the fiscal year there have been numerous critical situations affecting war production. Planning and preparation for contemplated seizures have been required. The seizures actually made have included such varied types of operations as transportation facilities, a meat-packing plant, a power plant, textile mills and retail sales facilities, as well as several manufacturing facilities. In approximately one-third of the cases it has been possible to return the plants and facilities to private management within a comparatively short time of the seizure. In the other cases it has been necessary to continue War Department possession and operation.

In almost all cases, operations have been conducted pursuant to agreements between the Government and the companies, and without cost to the Government, other than expenses of Army personnel and equipment engaged in the operation. In one case the War Department has encountered uncompromising opposition on the company's part, leading to litigation in which the Judge Advocate General's Department has assisted the Department of Justice in its endeavors to sustain the legality of the seizure and operation.

The efficiency with which this duty has been performed is attested by the following public commendation by Lieut. General W. D. Styer while serving as Chief of Staff to General Brehon Somervell, Commanding General of the Army Service Forces:

"I should like to compliment your office in particular upon the assistance given in those difficult cases where we have been directed to seize and operate war plants by an executive order from the President. In every single case the legal work performed as a part of the plant seizure by the Army has been outstanding. We have not had a serious backfire yet, and I hope there will be none in the future. Officers from your Office have served as legal advisers to

the War Department representative in each of these instances. I am sure when the war comes to an end the Army's record in the handling of plant seizures will be an outstanding one, and I want to pass a large part of the credit along to the Office of The Judge Advocate General."

Contracts Division

While the Contracts Division has continued during the past year to render opinions upon the requisitioning of property and the various legal questions arising out of the making and amendment of contracts, the opinions relative to contracts have, to an increasing extent, been concerned with their termination, interim financing and the disposition of surplus property. The Contract Settlement Act of 1944 and the Surplus Property Act of 1944, enacted during the year, granted new and extensive authority to deal with these subjects, and requests for opinions construing these acts have raised fundamental questions of law concerning their scope and effect upon preexisting law.

The authorization to settle termination claims has raised jurisdictional questions involving the General Accounting Office. The authorization to make direct payments to subcontractors has lead to questions of preference and Government priority where bankruptcy occurs. The broad authority to pay fair compensation for materials, services or facilities received without a formal contract has been the subject of continuous study.

The Division has continued to represent the Government in the preparation and presentation of appeals by contractors to the War Department Board of Contract Appeals. As an additional function, on April 7, 1945, the Under Secretary of War designated The Judge Advocate General as the legal representative of the War Department before the Appeal Board of the Office of Contract Settlement. The Contracts Division has been instrumental in improving the procedure for submission of contracts and modifications thereto in order to expedite its examination and approval of supporting bonds and consents of sureties to such modifications. It has also continued to examine official and other types of bonds and to cooperate in the preparation of new bond forms to meet new situations.

Military Reservations

In the files and activities of the Military Reservations Division since war was declared may be found an accurate index not only of the manner in which a struggle of this huge size raises the daily workload but brings about the property expansion of the entire military establishment in terms of reservations and acreage. In the hands of this division rests the responsibility for all legal matters pertaining to the acquisition, administration, disposition and use of real property under the control of the Secretary of War. This property includes not only all lands acquired for military reservations and national cemeteries but those acquired for flood control and the regulation, improvement and use of navigable waters.

On June 30, 1940, at the beginning of the emergency period, there were approximately 512 reservations, with a total acreage of approximately 2,261,574. As of December 31, 1944, however, the number of military reservations had increased to 1,825 and the land acquisitions to about 32,300,872 acres.

While much of the increase resulted from the purchase and condemnation of privately owned lands, nevertheless the greater portion was already owned by the United States and was either reserved from the public domain

for military purposes or transferred temporarily to the control of the Secretary of War from other departments of the Federal government.

An appreciation of the variety and extent of the legal duties performed for the War Department by the Military Reservations Division under present conditions may be obtained by a resume of the business transacted during the past fiscal year. Since June 1, 1944, the division has considered and prepared opinions on questions concerning the powers of the Secretary of War under the act of July 2, 1940, an act to expedite the strengthening of the national defense; the First and Second War Powers Acts; the Surplus Property Act of 1944; acts pertaining to defense housing; general acts authorizing the sale, exchange, transfer and lease of property, and the grant of rights of way for transmission lines, pipe lines and roads; and river and harbor and flood control acts.

Opinions were also prepared relative to annexation of military reservations to cities; rights of states to enforce their laws on military reservations; power of the Secretary of War to establish permanent military posts; acquisition of Federal jurisdiction over Federal enclaves; rights in property found on military establishments; authority of the Commissioners of the Soldiers' Home to permit the use of Home real estate by other departments of the Government; rights of the United States and the Territory of Hawaii in public lands in Hawaii; rights of a foreign military commission under the Rent Control Act; operation of motor vehicles on military reservations; delegation of authority by the Secretary of War to the Office of the Chief of Engineers to execute certain instruments pertaining to military reservations; warranting of title by the United States; right to place historical markers on military reservations and the management and control of housing projects.

Other opinions rendered concerned the applicability of state or Federal criminal law within military reservations; exchange of real estate; disposition of improvements placed on military reservations; disposition of easements on land leased to the United States; return of National Guard reservations to the states, with improvements; liability of Government contractors for loss of Government buildings by fires; relocation of railroad tracks, roads, pipe and transmission lines on military reservations and river and harbor lands; grants of rights of way for pipe, power, telephone and telegraph lines and roads; use of road building material removed from military reservations; leases, licenses, permits, proposed Executive orders, and proposed legislation affecting War Department real estate; construction, repair, and alteration of bridges over navigable waters, and obstructions to navigation.

One thousand five hundred fifty-seven cases were disposed of by formal opinion, while many others were handled informally. As immediate custodian of the legal papers which pertain to War Department real estate, the Division received, classified and filed approximately 21,286 sets of such papers and, in addition, rendered service to other branches of the Government by making these papers available for examination and by furnishing title information therefrom.

Litigation and Reduced Bus Fares for War Workers

Not least among the achievements of the Judge Advocate General's Department in behalf of both military and civilian war workers in the nation's capital was the recent victory obtained by the Government, with the active

aid and participation of the Litigation Division, JAGO in court actions to reduce bus fares between the District of Columbia and Army and Navy establishments located across the Potomac River in Arlington County, Va.

Initiated two years ago before the Interstate Commerce Commission by the Litigation Division, in behalf of the War and Navy Departments, the suits were ultimately carried by the bus companies to the United States Supreme Court on appeal. On May 28, 1945, that tribunal handed down a decision upholding reductions ordered by the ICC from which many thousands of employees will receive substantial benefits in transportation costs. The case was fought through successive stages by the Justice Department for the Government and the interests of the War and Navy Departments were represented throughout all proceedings by officers of the Litigation Division.

During this war the increase in separations from the service has resulted in a greater demand for medical records and under a joint War and Navy Department policy which the Litigation Division was instrumental in formulating, subpoenas and individual requests for such records are acted upon by this division. In fulfilling this responsibility, every effort is made to protect the servicemen against the disclosure of confidential information and invasions of their rights of privacy.

Cut-backs, terminations, and changes in the procurement program made necessary by changes in the military situation have required increasing attention to the protection of the War Department's financial interests, which is one of the Division's functions. The advice and services of the Division, in connection with guaranteed loans, bankruptcies, corporate reorganizations, and the collection of excessive profits have been instrumental in recovering vast sums for the War Department, and in minimizing inevitable losses.

In the field of general litigation of interest to the War Department there has been an increasing number of suits for alleged violations of the Fair Labor Standards Act. Of special interest is a recent decision (contrary to the position taken by the Division) that military bases leased from Great Britain are "possessions" of the United States, where the Act would apply. When the War Department's enormous construction program at foreign bases in all parts of the world under labor conditions totally different than those at home is considered, the impact and importance of the decision becomes apparent. Unreversed, it may have the effect of substantially increasing the cost of the war. An appeal has been authorized in this matter.

Military Affairs

The war has greatly multiplied the number of legal problems of vital importance to the War Department and the Army concerning the status and related matters affecting military and civilian personnel and the organization and administration of the military establishment. These matters are the direct responsibility of the Military Affairs Division, which in the past year alone has prepared approximately 5400 formal and informal opinions with respect to such matters.

A substantial portion of the cases involved the drafting of legislation affecting the War Department and the Army, or commenting upon the legal aspects of legislation proposed by the Congress or by agencies within the War Department, and upon laws currently enacted. Some of the more important legislative matters related to proposed amendments to the National Defense Act,

the Pay Readjustment Act of 1942, the Selective Training and Service Act of 1940, the Soldiers' and Sailors' Civil Relief Act of 1940, the National Service Life Insurance Act of 1940, the Nationality Act of 1940, the Mustering-Out Payment Act of 1944, and the act providing for the payment of the death gratuity. In addition the division was called upon to prepare or review drafts of Executive orders proposed to be issued in execution or implementation of existing statutes.

The work of the division also included the consideration as to legal aspects of new or revised Army regulations, War Department Circulars and Technical Manuals, pertaining to the administration and operation of the War Department and the Military Establishment. In this connection, the division is currently engaged in the revision of a draft of a Technical Manual for use by Army retiring boards.

During the period under consideration the division prepared digests of opinions of The Judge Advocate General on the following subjects: disability retirement benefits for military personnel, soldiers' voting, and the organized military forces of the Philippine Islands. It also prepared a list of existing emergency laws of temporary operation relating to the Army for distribution to the interested agencies of the War Department.

Patents and Copyrights

Owing to the mechanical and technical aspects of modern warfare, based upon science and invention, the work of the Patents Division in World War II has not only been greatly increased in volume but has assumed a role of highest importance in the protection of the interests of the government in scientific developments and inventions essential to the war effort.

Since the beginning of the emergency, the Patents Division has been active in collaboration with the Department of Justice in the defense of a number of patent infringement suits filed against the Government in the United States Court of Claims in which the War Department was the alleged infringing service and in the prosecution of a number of patent interferences before the tribunals of the United States Patent Office.

It has reviewed numerous actions and cases arising under the Royalty Adjustment Act of October 31, 1942, and assistance has been rendered in drafting new Procurement Regulations covering the settlement of patent claims and the use of patent clauses in supply and research and development contracts. Representatives of the Division also serve on the Army and Navy Patent Advisory Board in examining applications for patent and recommending secrecy orders in appropriate cases. The Division has received and processed many tenders made to the Secretary of War of inventions thus placed in secrecy.

Numerous invention disclosures received from the Office of Scientific Research and Development were handled direct or transmitted to the appropriate technical service for disposition, and a number of royalty-free licenses donated by patriotic patent owners have been received and recorded. In addition various applications for patents were prosecuted covering inventions of military and civilian personnel of the War Department and of the Army and a number of copyrights were registered with the Register of Copyrights.

Tax Division

Through the efforts of the Tax Division, substantial savings to the Government have been effected since the

beginning of the war. The Division has rendered advice to various offices throughout the War Department relative to the application of State and local sales, use, privilege, property and gasoline taxes and Federal excise taxes to the procurement and disposition of war supplies.

This responsibility has entailed the closest possible liaison with State and local tax administrators and with the Bureau of Internal Revenue. The Division has also aided in the preparation of procurement regulations and contract provisions relating to these taxes and has provided technical information concerning the liability of military personnel for Federal income taxes. The Division has also been instrumental, in connection with other departments, in the amending of Section 514 of the Soldiers' and Sailors' Civil Relief Act by Public Law 415, 78th Congress, for the protection of military personnel from double taxation of their personal property.

International Law

In no other war have the problems of war criminality and the violation of the Geneva Conventions and the accepted rules of warfare assumed such magnitude as in the present conflict. During the summer and fall of 1944 the most important aspect of the work of the International Law Division related to the prosecution of war criminals. This work became so heavy that the War Crimes Office was established in September to handle it. The International Law Division, however, continues to advise on legal questions of a general nature relating to war crimes.

Until the surrender of Germany in May 1945, the most prominent single topic handled by the division was the treatment and discipline of prisoners of war. The division examined the records of all trials of prisoners of war by general court-martial for conformity with the 1929 Geneva Convention on Prisoners of War and on many other occasions construed that convention in connection with questions of their feeding, labor, pay, civil rights, and other matters.

Shortly before and after the German surrender it considered several important questions of international law arising as a result of that event. Additional problems were presented shortly afterwards by the denunciation by Japan of its pact of alliance with Germany, and by the withdrawal of Switzerland as protecting power for German prisoners of war.

Less frequent, but nevertheless prominent in the business of the division, were questions relating to the leased bases in the British colonies, foreign taxation of military personnel, violations of the laws of war, and certain international agreements in the process of negotiation. Also occupying considerable time were the preparation of briefs and the presentation of oral arguments by members of the division in several cases in the federal courts relating to the exclusion program of the Eastern and Western Defense Commands and to military jurisdiction over civilians accompanying or serving with the army.

War Crimes

In September 1944 the Secretary of War placed upon The Judge Advocate General the responsibility of collecting and evaluating evidence of war crimes against members of our armed forces and other American nationals and of arranging for the prosecution of those believed to be guilty of such crimes. As a result, a division, which was later designated as the National War Crimes Office, was established in the Judge Advocate

General's Office in Washington under the direction of Brigadier General John M. Weir, Assistant Judge Advocate General. This agency functions as a National War Crimes Office in cooperation with the Navy and State Departments. The Office cooperates with the United Nations War Crimes Commission in London, whose American representative is Lt. Colonel Joseph V. Hodgson, JAGD.

Since its activation, the War Crimes Office has amassed a large volume of evidence, including affidavits from victims and eye-witnesses, documenting the atrocities and cruelties committed against Americans by the enemy.

Branches for the handling of matters pertaining to war crimes have been established under the jurisdiction of the theater judge advocates in the various theaters of operations. In addition, teams composed of members of the Judge Advocate General's Department and other legal officers and assistants have been organized for the purpose of making spot investigations of Buchenwald, Dachau, and many other Nazi-operated prisoner of war camps, internment camps, and murder camps.

Since the appointment by President Truman of the Honorable Robert H. Jackson, Associate Justice of the Supreme Court, as Chief of Counsel for the United States in the prosecution of the major Axis war criminals, the entire resources, files, and services of the War Crimes Office have been placed at his disposal, and officers of the War Crimes Office are assisting the Chief of Counsel in his preparation for the trial of the arch criminals.

In discussing the work of this newest division of his office, General Cramer said, "It gives me great satisfaction to assure the parents and relatives of our fighting men and of all other Americans who have suffered injury, indignity, or death as a result of war crimes committed by the enemy that the War Crimes Office will make every possible effort to see that the perpetrators are held to strict accountability for their crimes and pay just penalties."

General Cramer himself participated as co-prosecutor with the Attorney General of the United States in the trials and convictions of the eight German saboteurs who were landed from Nazi submarines on the coast of the United States early in 1942. This is the first time in the history of the Judge Advocate General's Department that its Commanding Officer has personally assisted in the prosecution of a case of this character. Apprehended by the Federal Bureau of Investigation and turned over to the Army and the Justice Department, the eight saboteurs were judged by a Military Commission authorized by the President and were found guilty of the charge of entering the country on a mission of espionage and sabotage. The accused Nazis were completely unsuccessful in their mission before being caught and were found guilty after a trial in which they were given the benefit of all the legal rights and privileges to which they were entitled under the rules of warfare.

Training Judge Advocates

Challenged by a diversity of functions, a volume of business and an expansion of staff unheard of in the records of the Department, General Cramer solved the problem of providing highly qualified and technically trained recruits for the Department by the establishment of the Judge Advocate General's School, located at the Law School of the University of Michigan, Ann Arbor, Michigan.

Originally launched at the National University Law

School in Washington, in February, 1942, the school was early forced to seek larger accommodations and in September of the same year accepted the public-spirited and generous invitation of Dean E. Blythe Stason of the University of Michigan Law School to establish itself in the Law Quadrangle of the University on the campus at Ann Arbor. It has since functioned at that site and on July 21, 1945, graduated its 12th Officer Candidates Class and 23d Officer Class.

Including those who were graduated on July 21, a total of 1,856 officers have been graduated at the institution. Of this number, 833 are graduates of the Officer Candidates Class, receiving commissions as second lieutenants in the Judge Advocate General's Department and 1,023 are graduates of the advanced and special Officer classes provided for judge advocates already in the Department. In addition, almost 500 officers from other branches of the Army have been trained at the school in special contracts and readjustment courses. Thus more than two-thirds of the entire commissioned personnel of the Judge Advocate General's Department have received the benefit of one or the other of these training programs.

Besides providing training and instructions in the versatile duties of judge advocates in the present war, the school has conducted an important activity in the preparation of texts for use in the institution. This work has been made necessary because of the almost complete lack of written material on many of the matters included in the curriculum. To date 11 such texts have been written and are kept current by constant research, revision and supplements. It is believed that no other school in the Army has had to prepare its own material to such an extent.

The school constitutes the only military command as such in the Judge Advocate General's Department and is conducted strictly as a military establishment, under firm rules of discipline and military regulations. For this reason it has earned the title of "The Lawyers' West Point." Battalion parade, reviewed by General Cramer, is a distinctive feature of every commencement program.

Only enlisted men who have received their basic Army training and possess a law degree from an accredited law school and four years of active practice as attorneys may apply for admission to the candidates' classes. The minimum age limit is 28 years. Many of the judge advocates now being commissioned have seen combat service. Because of the age, legal education and practical professional experience required, it is believed the trainees of no Army school have higher qualifications or a broader background than the candidates at the Judge Advocate General's School.

Future Planning

Entering its 171st year at the peak of its strength and functions the Judge Advocate General's Department, like other branches of the Army, faces the responsibility of preparing for peace after the victory over Japan.

For this purpose, General Cramer established the Planning Branch, to coordinate, develop and supervise all plans for readjustment, redeployment and demobilization operations coming within the sphere of the normal functions of The Judge Advocate General. Following the end of the European phase of the conflict, the Planning Branch is now occupied with the development of plans for the period following the cessation of hostilities in the Pacific.

THE JUDGE ADVOCATE GENERAL'S *School*

By CAPTAIN GEORGE P. FORBES JR., JAGD

ONE of the most unusual events in the ordinarily routine life of the school during the three-month period covered by this report (15 February to 19 May) was the three-day visit of Latin-American military legal officers on 28 to 31 March.

Arriving just before evening chow on 28 March, the party of dignitaries was driven to the school where the school battalion, drawn up in formation, rendered military honors. General Cramer honored the school on the next day by choosing it to be the scene of his first welcome to the Latin-American guests after their arrival in this country. He made a special trip from Washington to greet them here on 29 March, at which time other speakers were Dr. Alexander G. Ruthven, President of the University of Michigan; Colonel Reginald C. Miller (in Spanish); and Dean E. Blythe Stason of the University of Michigan Law School. Colonel Aristides Sosa de Quesada of Cuba, responding upon behalf of the entire delegation, performed the rare feat of holding his audience spellbound by the force and eloquence of his delivery although most of them could not understand Spanish. In the afternoon's demonstration court-martial, presented by members of the staff and faculty under the supervision of the Military Justice Department of the school, interest of the visitors waxed to such a pitch that they frequently interrupted the proceedings to ask questions, climaxing with a request to participate in the voting on the guilt or innocence of the accused who was on trial for refusing to obey the lawful order of a superior officer. Moved, as they later confessed, more by the heart than by the mind, their vote resulted in a 13 to 8 tally for acquittal. The court, bound by the script, voted 4 to 1 for conviction.

Later in the day the party was conducted on a tour of some points of interest on the University campus, returning to the Quadrangle for the retreat parade which they reviewed with General Cramer, Colonel Miller and other school officers. The Judge Advocate General's Dinner held in the evening at the Allenel Hotel, attended by members of the staff and faculty and wives, and a refreshing pause at the Officers' Club ended the day's activities.

A conference, inspired by the moot court trial of the previous day and other inquiries on matters of military justice, occupied the attention of the delegates in the morning of 30 March. A tour of inspection of the Willow Run Bomber Plant took up the afternoon. All members of the party were greeted individually at luncheon at the plant by Henry Ford II. In cooperation with the Director of the University of Michigan International Center the school held a reception at the center in the evening at which over 250 students of the University from Latin-American countries met officers from their native lands.

On Saturday, 31 March, the party left Ann Arbor for Detroit where the morning and part of the afternoon were devoted to an inspection of the manufacturing of Pratt and Whitney airplane motors and the manufacture of steel at the Ford River Rouge Plant. Mr. Orville H. Foster, prominent member of the Detroit Bar, vice president of the Detroit Bar Association, and head of a

world-wide travel agency, was host to the entire party at a reception at the Detroit Athletic Club, after which the group attended the Latin Quarter Club for dinner, boarding the train for Indianapolis and Fort Benjamin Harrison shortly before midnight.

Lest it be thought that the demonstration court-martial and the conference here were the sum total of the school's contribution to their knowledge of military law as practiced by the Army of the United States, it should be mentioned that lectures on such subjects as Military Affairs, Military Justice, and Prisoners of War were prepared by the staff and faculty and were presented at the meetings in Chicago which preceded the visit to Ann Arbor.

Graduations 17 March and 19 May

An event which though commonplace in the life of the school never fails to cause excitement in the hearts of those individually affected, a graduation, rolled around on St. Patrick's Day, 17 March, giving those students of non-Celtic strain as much reason to celebrate as the Kellys and O'Flahertys. As usual, General Cramer took time away from his busy desk to be on hand to review the school battalion in the graduation parade on 16 March, witness the successful candidates (45) take the oath as second lieutenants, and attend the banquet in the evening with them and with the graduates of the 21st Officer Class who finished an eight-week course at that time. There was a total of 74 graduates, 45 in the 10th Officer Candidate Class and 29 in the 21st Officer Class.

The importance of the festivities was increased by the presence at the banquet and at the formal ceremonies on 17 March of Major General Russel B. Reynolds, Commanding General of the Sixth Service Command. He and General Cramer as well as Colonel Miller and Dean Stason were speakers on that occasion.

One of the completely new activities of The Judge Advocate General's Department to which graduates may draw assignments is that pertaining to all phases of war crimes, General Cramer said, pledging that no stone would be left unturned to establish the truth or falsity of charges of inhuman conduct and violations of the accepted rules of warfare and to bring to justice all perpetrators of such offenses. General Cramer referred approvingly to the achievements of the school reflected in the performance of its graduates, saying, "I know that in every way this school has lived up to the high standards required of all its training schools by the Army Service Forces."

There is no surplus of judge advocates, General Reynolds stated. The demand is always greater than the supply. He promised the graduates that they would find that their work was essential and that they would all have opportunities to prove their judgment and abilities.

On 19 May another group of officers completed training, a total of 75, 29 in the 22nd Officer Class and 46 in the 11th Officer Candidate Class, bringing the grand total of graduates from the school, exclusive of Contracts and Readjustment Classes, to 1759. Altogether there are 969 alumni of officer classes and 790 of officer candidate classes. Gen. Cramer, Col. Miller and Dean E. Blythe Stason of the University of Michigan Law School were speakers at the exercises.

General Cramer emphasized that the end of hostilities in Europe meant only one thing for judge advocates, work, work, and more work, anticipating an increase of problems in relation to discipline and the administration of military justice in the trying period of redeployment. Other factors indicating busy times were expectations that the number of claims would mount in Europe with the end of the conflict, and that legal assistance calls would multiply as service men return from overseas. Most important of all, Gen. Cramer said, would be the part the Department has begun to play and will continue to play in the prosecution of war criminals. "The pursuit of war criminals and the bringing to trial of the butchers and oppressors of our fighting men and our people have become a major Judge Advocate General's Department activity in itself," he stated, adding that no more welcome assignment has ever been accepted by the officers of this corps.

Contracts and Readjustment Classes Suspended

After a series of nine 30-day courses in Contracts and Readjustment during which almost 500 officers from several branches of the Army were given specialized training starting on 1 May 1944, the course in Contracts and Readjustment was temporarily suspended in March with the expectation that training would be resumed some time after V-E Day. Suspension was caused by two factors, the first being the presence in the field of a number of trained officers sufficient for present needs and the other being the switched emphasis from termination and readjustment problems to procurement of war materiel. The switch, it will be recalled, came as a result of the temporary Nazi successes in December in the Battle of the Bulge. Confidence in the early renewal of Contracts and Readjustment classes had its evidence in the expressed opinion of high-ranking officers in the Office of the Under Secretary of War that The Judge Advocate General's School and the Army Industrial College should be available for training officers in termination and readjustment matters when the need for personnel again becomes acute. With this in mind, these officers suggested that instructors in Contracts and Readjustment be retained on the staff and faculty so that classes might be resumed at a moment's notice. This suggestion has been followed at the school and members of the staff and faculty assigned to the Contracts and Readjustment Department have been rotated on tours of temporary duty at field installations. At the same time, other members have continued the instruction for students of the regular officer and officer candidate classes in matters pertaining to contracts and readjustment, including procurement, production changes, renegotiation and repricing, as well as in advance planning for terminations which will permit rapid reconversion of industry from war to peace requirements.

Roosevelt Memorial Honors and V-E Day

Two special occasions, one of sadness and one of a happier nature, were observed by the school in April and May. With other Army posts throughout the world, the school shared the sad task of conducting memorial honors out of respect for the memory of the late President Franklin D. Roosevelt and such honors were rendered in the Law Quadrangle on 14 April at 1600 EWT. In the ceremonies the school battalion and members of the staff and faculty were joined by all Army forces in Ann Arbor, 900 strong, under command of Lieutenant Colonel

Michael L. Looney, Acting Commandant. General Order No. 29 of the War Department announcing the death of the late President and a message from General Reynolds were read and appropriate music was played.

On 8 May at 1900 EWT a similar formation marked the observance of victory in Europe. The number of troops in the Quadrangle was swelled by the addition of the personnel of the Civil Affairs Training School, bringing the total of participants to almost 1100 including a group of WACs. The Presidential Proclamation was read by Lt. Col. O'Connor and Col. Miller followed with his own message, encouraging a reaffirmation of "our pledge of renewed energy and effort to close out the last remaining enemy—Japan." Col. Miller called for a minute of silent prayer for the fallen in battle, of thanksgiving for past successes, and a rededication of "our efforts to the end that peace and honor among nations will soon replace war and perfidy." Students were permitted to attend services at their respective churches in the evening and thereafter resumed normal training activities.

ASF Training Meeting

The school was represented at one of the regular monthly training luncheons of the Military Training Division, ASF, on 20 February in The Pentagon by Colonel Miller as well as by General Cramer, Brigadier General Thomas H. Green, Deputy Judge Advocate General, Lieutenant Colonel Anthony Kane, Chief of the Military Personnel and Training Division, JAGO, and Major Randolph Karr, Classification Officer, JAGO. The luncheon was one of a series initiated by Major General William L. Weible, GSC, Director of Military Training, Army Service Forces, to provide a common meeting ground for the discussion of mutual problems by representatives of various agencies of the Army having training programs.

Changes Continue to Take Place in the Personnel of the Staff and Faculty

Departures include those of 1st Lieutenant Bernard P. Collins, Infantry, assigned to the Military Science and Tactics Department, Captain Adolph F. Reel, assigned to the Civil Affairs Department, and 1st Lieutenant Hugh M. Lindsey, assigned to the Contracts and Readjustment Department. Veteran in point of service of the trio was Lieutenant Collins who was assigned to Ann Arbor in February 1943 from Camp Wolters, Texas. A graduate of the 6th Officer Candidate Class, Captain Reel was assigned to the staff and faculty here in November 1944 from the Claims Division, JAGO, where he had been on duty from the time of his graduation. He returned to the Claims Division pending early overseas duty. Lieutenant Lindsey was a graduate of both the 8th Officer Candidate Class and of the 6th Contracts and Readjustment Class and also came on the staff in November 1944, serving as an instructor in the Contracts and Readjustment Department. He has been assigned to the San Francisco Port of Embarkation.

During the period under discussion, promotions came to Colonel Miller, advancing him to colonel from lieutenant colonel, and to Jeremiah J. O'Connor (8th Officer Cl.), Executive Officer of the school, raising him from major to lieutenant colonel. Harry J. Pasternak (2nd OC), instructor in Contracts and Readjustment, was promoted to captain during the period.

WASHINGTON *News AND Views*

Colonel Hodgson Named to War Crimes Commission

Lieutenant Colonel Joseph V. Hodgson was appointed by President Harry S. Truman on 12 May 1945 as United States Commissioner on the United Nations War Crimes Commission. Colonel Hodgson has been Acting Commissioner since 1 January 1945 and succeeds Mr. Herbert C. Pell under whom he had previously served as Deputy Commissioner.

Colonel Hodgson was commissioned a major in the Judge Advocate General's Department in 1942 and served as Assistant Staff Judge Advocate for the Hawaiian Department. He was an infantry lieutenant in World War I.

A native of Michigan, he graduated from the University of Michigan and the Law School taking his LL.B. at the latter in 1925. He became Deputy Attorney for Hawaii in 1934, Assistant Attorney General in 1937 and Attorney General in 1938, holding that position until he resigned to enter the Army.

Common Sense vs. Income Tax

Commenting on a recent speech by General Cramer, a Memphis, Tennessee newspaper writes:

"More soldiers are worried by income tax troubles than by faithless wives, the War Department reports. Six per cent fret over domestic crises as against 26 per cent sweating over taxes. The Judge Advocate General, Major General Myron C. Cramer, says the fireside squabbles generally can be adjusted by expressing 'common sense and forbearance.'

"Okay, Judge, now tell us how to use common sense on income tax blanks."

Captain Robinson Addresses Committee of A.B.A.

Captain James J. Robinson, USNR of the Office of The Judge Advocate General of the Navy on duty in the National War Crimes Office in JAGO delivered an address before a joint meeting of the Military and Naval Law Committees of the American Bar Association and the Federal Bar Association in the Cosmos Club Auditorium in Washington, 20 April 1945. Captain Robinson's address dealt with legal charges and specifications in war crimes cases. He took a reported incident of a Japanese atrocity against a group of American prisoners of war and after defining the term war crime and applying the definition to the facts of the particular case under discussion, proceeded to draw sample charges and specifications based upon this particular incident. Captain Robinson's address was followed by an open forum discussion.

Major Dainow on Program with Justice Murphy

Major Joseph Dainow, Chief of Publications Section, JAGO, and Editor of the JAG Bulletin, was one of the principal speakers on the final conference program of the Riccobono Seminar of Roman Law held at the Catholic University Law School 3 May 1945. The Honorable Frank Murphy, Associate Justice of the Supreme Court of the United States, presented the appellate competition awards and law prizes at the conference.

Major Dainow spoke on the significance of comparative law.

Colonel Goff and Colonel Brundage attend United Nations War Crimes Commission Conference

Colonel Abe M. Goff and Colonel Howard A. Brundage attended a three days' conference of the United Nations War Crimes Commission held in London commencing 5 June 1945. The conference was called for the purpose of establishing policies with respect to the exchange of information between the respective national war crimes offices. It is expected that procedures for establishing a central clearing house will be worked out as a result of the conference. General Edward C. Betts and Lieutenant Colonel Hodgson also attended the conference as American representatives as well as Captain James J. Robinson, USNR of the National War Crimes Office.

A Father's Thoughts

The following poem by Colonel Lester Abele, JAGD, Staff Judge Advocate of the XII Corps was reprinted in the Congressional Record 26 May 1945:

SOMEWHERE DEEP IN GERMANY,

March 27, 1945.

MY DEAR SON TONY:

I wish I had the power to write
The thoughts wedged in my heart tonight
As I sit here watching that great big star
And wondering how and where you are.
You know, Tony, it's a funny thing
How close a war can always bring
A family, who for years with pride
Has kept emotion deep inside.
I'm sorry that when you were small
I let reserve build up that wall—
I told you real men never cried
And it was mommie who always dried
Your tears and smoothed the hurt away
So that you soon went back to play.
But, Tony, deep down within my heart
I longed to have some little part
In drying that small tear-stained face.
But we were men—men don't embrace,
Now suddenly, I find my son
A full grown man, with childhood done,
Tonight you're far away across the sea
But soon you'll be waging war for men like me.
Well, somehow pride and what is right
Just doesn't seem to go tonight.
I find my eyes won't stay quite dry;
I find that sometimes men do cry.
And if we stood here face to face
I'm afraid we'd find men do embrace.
Tony, dads are quite a funny lot
And if I've failed you in some spot
It's not because I loved you less,
It's just this cussed manliness.
But if I had the power to write
The thoughts wedged in my heart tonight
The words would ring out loud and true
I'm proud, my Tony, so proud of you.

IN Memoriam

Colonel W. Catron Rigby

W. Catron Rigby was born in Waterloo, Iowa, in 1872. He received Bachelor of Arts and Philosophy degrees from Cornell College in 1892, a Master of Arts degree from the same college in 1897 and a Bachelor of Laws degree from Northwestern Law School in 1893. Cornell College bestowed an honorary degree of Doctor of Laws upon him in 1942.

Colonel Rigby practiced law in Chicago from 1893 until 1918 when he was commissioned a major in the Judge Advocate General's Department. In 1919 Colonel Rigby was detailed to examine the administration of military law in the allied armies and to make recommendations for the revision of the Articles of War and the Manual for Courts-Martial. Thereafter, he served in various capacities in the Judge Advocate General's Department concluding his service in 1934 with a three year tour as Chief of the Insular Affairs Section.

He retired from the Army in 1934 and engaged in the general practice of law with the law firm of Rigby, Leon and Weil in the city of Washington of which he was the senior partner. From 1934 to 1942 he served as counsel for the Government of Puerto Rico in the national capital and in 1936 was named by the Senate Committee on Insular Affairs to conduct an investigation of Puerto Rican affairs.

Colonel Rigby was recalled to active duty in 1941 and detailed to report on the administration of military law and kindred matters in England. Upon his return from England and the completion of this assignment in June, 1942, he reverted to an inactive status. He served as a Director of the Judge Advocates Association and was a contributor to the Judge Advocate Journal. He was active in the American Bar Association serving as chairman on the Committee of Military and Naval Law from 1942 until his death. He also served as treasurer and chairman of the Executive Committee of the Inter-American Bar Association. He was a member of the Bar Association of the City of New York, The American Society of International Law and the Chicago, District of Columbia and Federal Bar Associations. He was a member of Phi Beta Kappa, Delta Chi, the University Club of Chicago, the Army and Navy and Cosmos Clubs in Washington, the Lotus Club in New York and the Athenaeum Club in London.

Colonel Rigby died of a heart attack at his home, 6710 Lee Highway, Falls Church, Virginia, on April 16, 1945.

He is survived by his wife, Mrs. Clare B. Rigby, and three daughters, Mrs. Cecil Nussbaum, Mrs. Evelyn Moore and Mrs. Carol Rigby.

Major George D. Carrington

George D. Carrington was born in New York, New York, in 1888. He attended Williams College from which he received a Bachelor of Arts degree in 1910. He received a Bachelor of Laws degree from New York University Law School in 1913 and was admitted to the New York Bar in the same year. He practiced in New York City from 1913 until 1942 when he entered upon active duty. Major Carrington was first assigned as an assistant judge advocate at Wright Field, Ohio. Later, he was assigned to the Claims Division of the Office of The Judge Advocate General in Washington, D. C., and subsequently to the Military Justice Division. Thereafter he was staff judge advocate of the United States Armed Forces in Liberia from 1943 until his return to this country in the early part of 1945.

Major Carrington died at his home in New York City 19 April 1945. He is survived by his wife, Mrs. Elaine Carrington, a son, Robert B., and a daughter, Patricia Carrington.

MENTAL ACCOUNTABILITY (Continued from Page 19)

of, possessed the necessary mental intent or attitude. Obviously, without a knowledge of the rightness or wrongness of an act, an accused could not have a criminal mind. Likewise, if the accused, because of mental illness, is deprived of the power of choice or of volition he does not possess the mental attitude essential to criminal responsibility. Moreover, the military justice standard is not a test of sanity or insanity as those words are generally understood. It employs neither word and it does not require a determination as to the existence of either condition. Since the standard is free from the restraints of dogma and from inflexible legal and medical definitions, it should remain useful despite changing views as to the nature and scope of mental diseases. Regardless, however, of its merits the problem of its just application is a difficult one and one which calls for intellectual humility and painstaking effort on the part of all concerned.

HONOR ROLL (Continued from Page 28)

CROIX DE GUERRE WITH PALM

To: Edward L. Van Roden, Lieutenant Colonel, JAGD, State Road, Media, Pennsylvania.

For: Exceptional war services rendered in the course of operations in the liberation of France.

Colonel Van Roden attended the University of Pennsylvania Law School and thereafter engaged in the general practice of law in Media, Pennsylvania, from 1915 to 1942, when he entered upon active duty. From 1920 to 1925, he was United States District Attorney. Colonel Van Roden saw service in the last war and in the current war was assigned to the Military Justice Division of the Office of The Judge Advocate General before going overseas with the Seventh Corps.

Latin American Legal Officers Praise Army Court-Martial System

THE twenty-two legal officers representing thirteen Latin American countries who recently completed a six weeks' tour of military installations in the United States were high in their acclaim of the system of military justice in the United States Army according to communications received by the War Department and The Judge Advocate General's Office.

Visiting the United States at the invitation of Major General Myron C. Cramer, The Judge Advocate General, the officers arrived at Chicago on 15 March 1945 where they attended a series of lectures and discussions on the military laws of the Army conducted at Northwestern University. Papers read during these sessions included "Organization of the Army," by Major Bernhard W. Alden, JAGD, and Captain John G. Stephenson III, JAGD, "Military Affairs," by Captain Wright W. Brooks, JAGD, "The Administrative Settlement of Claims against the Government of the United States," by Colonel Ralph G. Boyd, JAGD, and Major Reginald C. Field, JAGD, "Military Justice," by Major Warren F. Farr, JAGD, and Captain John H. Finger, JAGD, "Rehabilitation Program of the United States Army," by Colonel Marion Rushton, AGD, "Trial and Punishment of War Criminals," by Colonel Abe McGregor Goff, JAGD, "Government Contracts," by Colonel J. Alton Hosch, JAGD, and "International Law," by Colonel Archibald King, JAGD.

On arriving at Chicago the visitors were welcomed by Mayor Edward J. Kelly of Chicago, Brigadier General John M. Weir, Assistant Judge Advocate General, Mr. Harry L. Wells, Vice President of Northwestern University, and others. Various points of interest were visited while in Chicago and numerous entertainments were scheduled for their benefit including a reception by Major General Russel B. Reynolds, Commanding General, Sixth Service Command, a dinner by the officers and trustees of Northwestern University, a reception by the Pan American Council of Chicago, and luncheons by Wilson & Company and Marshall Field & Company.

Leaving Chicago, the group visited Fort Leavenworth, Kansas, where they were greeted by Major General Karl Truesdell and members of his staff. Special lectures and demonstrations were presented and various classes of instruction at the Command and General Staff School were visited. The officers attended a general court-martial trial and were taken on a tour of the U. S. Disciplinary Barracks by the Commandant, Colonel William S. Eley. Brigadier General William A. Campbell, Assistant Commandant, Command and General Staff School, was host at a dinner tendered the visiting officers and Latin American students at the school.

The party was joined at Ann Arbor, Michigan, by General Cramer, during the visit to The Judge Advocate General's School. After a formal review of the student battalion the group attended ceremonies of welcome by General Cramer, President Alexander G. Ruthven of the University of Michigan, Dean E. Blythe Stason of the Law School, Colonel Reginald C. Miller, JAGD, Commandant of The Judge Advocate General's School, and

others. A moot court-martial trial was staged by the Staff and Faculty and students at the school and the visitors attended discussion sessions devoted to military justice. During the visit to Ann Arbor, the group was taken on inspection tours through the Willow Run bomber plant and the River Rouge plant of the Ford Motor Company.

At Fort Benjamin Harrison, Indiana, the visitors inspected Billings General Hospital, the Disciplinary Barracks, the Finance School, and other installations and witnessed special demonstrations staged for their benefit. While in Indianapolis they were received by Governor Ralph F. Gates of Indiana and members of the state Supreme Court.

Two days were spent at Wright Field, Ohio, where the party was welcomed by Lieut. General William S. Knudsen, Commanding General, Air Technical Service Command, and officers of his staff. The visitors were taken on an exhaustive tour of Wright and Patterson Fields which included the power plant laboratory, wind tunnels, personal equipment laboratory, structure test laboratory, and the flight line. The functions of the Judge Advocate's office were explained by Colonel Franklin P. Shaw, JAGD, Judge Advocate.

The group were guests of Major General Charles L. Scott, Commanding General, The Armored Center, at Fort Knox, Kentucky, from 6 to 9 April, when they inspected the classes at The Armored School, the personnel and equipment of the Armored Replacement Training Center, and School Troops. Special armor and weapon demonstrations were exhibited for the visitors. Leaving Fort Knox, the party visited Charlottesville, Virginia, where the officers inspected the University of Virginia and were entertained by Dr. J. L. Newcomb, President, and other university officials. A special lecture on basic court-martial principles was delivered by Colonel William M. Connor (retired), formerly Professor of Law at the U. S. Military Academy. An afternoon was spent at Monticello where United States Senator Dennis Chavez spoke briefly on Thomas Jefferson and the history of the relations of the United States with Latin America.

At New York City the visitors were guests of Major General Groninger, Commanding General of the Port of Embarkation, and spent two days touring New York harbor and visiting numerous port installations. The legal work of the port was described by Colonel Arthur T. Levitt, Staff Judge Advocate. During their visit, members of the party were welcomed by Lieut. General Hugh A. Drum, retired, head of the New York State Guard and manager of the Empire State Building, and Archbishop Francis J. Spellman.

Numerous points of interest were visited, including the studios of the National Broadcasting Company, Radio City Music Hall, and St. Patrick's Cathedral. The members of the group were luncheon guests of Eugene Holman, President of the Standard Oil Company (New Jersey) and other company officials at the University Club.

A day was spent at West Point, New York, inspecting the facilities of the United States Military Academy as

guests of Major General Francis B. Wilby, Superintendent, Brigadier General George Honnen, Commandant of Cadets, and Colonel Charles W. West, Professor of Law. The following day, 18 April, was spent at the United States Naval Academy at Annapolis, Maryland, where the party toured the grounds and inspected the classrooms and equipment. In the afternoon the officers witnessed a review of the cadet regiment.

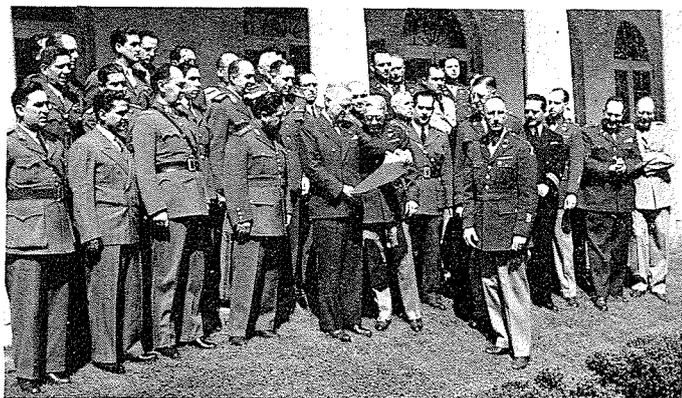
The last point visited was Washington, D. C., where the group was welcomed and received at the White House by President Harry S. Truman. A memorial scroll from the visiting delegation was presented to the President by General Cramer. The party called on General George C. Marshall, Chief of Staff, U. S. Army, Under Secretary of War Robert P. Patterson, members of the Senate and House Committee on Foreign Affairs, Speaker Sam Rayburn, Senator Kenneth McKellar, President of the Senate, and other government officials. At the Offices of The Judge Advocate General the visitors met Rear Admiral Thomas L. Gatch, Judge Advocate General of the Navy, his assistant, Rear Admiral Frank Lowe, Brigadier General Thomas H. Green, Deputy Judge Advocate General of the Army, and officers on duty in the Office of The Judge Advocate General of the Army. Many points of interest in and near Washington were visited, including Mount Vernon, Arlington Cemetery, the Lee Mansion, National Gallery of Art, National Cathedral, Library of Congress, and Georgetown University. Special programs for the benefit of the officers included a luncheon by sections of the Inter-American Bar Association and the American Bar Association, a dinner by the Section on Military and Naval Law of the American Bar Association and a reception at the Pan American Union. The officers departed from Washington for their respective countries on 24 April 1945.

The visiting officers and the countries represented at the conferences and the tour of military and naval installations are as follows:

Lt. Col. Jose M. Villanueva and Captain Luis Ramos Arce, of Bolivia.

Major General Washington Vax de Mello and Brigadier Amilcar V. Pederneiras, of Brazil.

Brigadier General Ramon Contreras Arriagada and Colonel Lucio Parada Pincheira, of Chile.



President Harry S. Truman and Major General Myron C. Cramer examine scroll presented to the President by visiting legal officers from Latin American countries.

Captain Januario Antonio Sanchez and Captain Jose Phillips of Colombia.

Colonel Gregario Martin, of Costa Rica.

Colonel Aristides Sosa de Quesada and Captain Armando Nin y Rodriguez, of Cuba.

Lt. Col. Manuel Memendez Rios, of Guatemala.

Major General Aristeo Barrueta Mendiola and Brigadier General Raul Fernandez, of Mexico.

Colonel J. Evenor Hernandez Fornos, of Nicaragua.

Captain of the Navy Jose Wenceslao Benites and Lt. Commander Jesus Blanco Sanchez, of Paraguay.

Brigadier General Leonidas Gonzalez Honderman and Colonel Luis Alberto Arboleda Vinas, of Peru.

Major Manuel Alfonso Martinez, of El Salvador.

Lt. Col. Artigas Plaza and Major Arturo J. Balinas, of Uruguay.

United States Army officers who formed the escort party for the visiting officers were: Colonel Howard A. Brundage, JAGD, Lt. Colonel Miguel A. Buset, JAGD, Major Jose Guillermo Vivas, JAGD, Major James M. Scott, JAGD, Major Clarence L. Yancey, JAGD, and Lt. Robert H. Lounsbury, MIS.

The project was planned by Brigadier General John M. Weir, assisted by Colonel Brundage and Major Yancey and the translation of legal texts was handled by Major Vivas. The visit was under the joint sponsorship of the Office of Inter-American Affairs, represented by Norris M. Mumper, and the War Department, represented by Lt. Colonel Gustave Pabst, Jr., GSC, Chief of the Latin American Section, Military Intelligence Service.

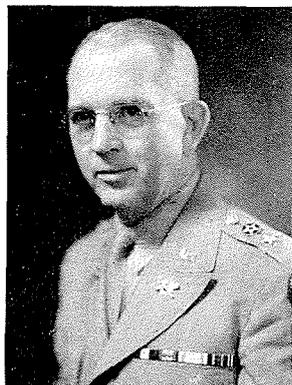


Visiting officers pose in office of General Cramer in Washington. Left to right: Capt. Jose Phillips of Colombia, Major Manuel A. Martinez of El Salvador, Major Artigas Plaza of Uruguay, Brig. Gen. Amilcar Sergio Feroso Pederneiras of Brazil, Capt. Januario Antonio Sanchez of Colombia, Major Gen. Washington Vaz de Mello of Brazil, Brig. Gen. Raul Fernandez of Mexico, Brig. Gen. Ramon Contreras Arriagada of Chile, Lt. Col. Manuel Memendez Rios of Guatemala, Col. Evenor Hernandez of Nicaragua, Maj. Gen. Aristeo Barrueta of Mexico, Col. Aristides De Quesada of Cuba, Col. Lucio Parada Pincheira of Chile, Capt. Luis Ramos Arce of Bolivia, Capt. De Corbeta Jesus Blanco Sanchez of Paraguay, Brig. Gen. Leonidas Gonzalez Honderman of Peru, Capt. Armando Nin y Rodriguez of Cuba, Col. Luis Alberto Arboleda Vinas of Peru, Col. Gregorio Martin of Costa Rica, Capt. De Navio Wenceslao Benites of Paraguay, Lt. Col. Jose M. Villanueva of Bolivia, Maj. Arturo J. Balinas of Uruguay. Seated: Maj. Gen. Myron C. Cramer, The Judge Advocate General, U. S. Army; Rear Admiral Thomas L. Gatch, The Judge Advocate General, U. S. Navy; Rear Admiral Frank L. Lowe, Asst. Judge Advocate General of U. S. Navy; Brig. Gen. Thomas H. Green, Deputy Judge Advocate General of the U. S. Army.

THE AIR JUDGE ADVOCATE'S *Office*

By COLONEL HERBERT M. KIDNER, JAGD, ASSISTANT AIR JUDGE ADVOCATE

THE title, "Air Judge Advocate," first came into use more than three years ago, but nonetheless there are frequent questions as to his functions and place in the organization of the Army and the Army Air Forces. Such



BRIGADIER GENERAL
LAWRENCE H. HEDRICK,
The Air Judge Advocate

terms as theater army and corps judge advocates have a well accepted meaning throughout the military establishment and generally give rise to an understanding of the nature and functions of the office. A brief sketch of the history and organization of the Army Air Forces will serve to promote a wider understanding of the functions and activities of the Air Judge Advocate.

The Army Air Forces is popularly believed to have come into existence on 9 March 1942, the effective date of Circular 59, War Department, 1942, which was prom-

ulgated pursuant to Executive Order No. 9082, 28 February 1942, and which reorganized the Army into the War Department General Staff, the Army Air Forces, the Army Ground Forces, and the Services of Supply. The Army Air Forces, however, actually came into existence on 20 June 1941, almost a year earlier, with the issuance of AR 95-15 and War Department Special Order No. 143, designating the Chief of the Air Corps as the Chief of the Army Air Forces. The legal staff duties of the Army Air Forces prior to the 1942 reorganization were performed by the Chief of the Legal Division, A-1, AAF. The Office of the Air Judge Advocate by that name did not appear until 9 March 1942, when it was created as an office of the Air Staff coincident with the reorganization of the Army Air Forces pursuant to Circular 59, supra.

The position of the Air Judge Advocate is an anomalous one. He is the chief legal officer of the Army Air Forces. There is no comparable legal officer on either the General or Special Staff of the Army Ground Forces. The Air Judge Advocate is charged with the responsibility of acting as chief legal counsel for the Army Air Forces, of exercising general supervision over the administration of law and discipline in the Army Air Forces, of administering the selection and assignment of legal personnel within the Army Air Forces, and representing the legal interests of the Army Air Forces before other agencies of the Government. The mission and scope of operations of the Army Air Forces determine the nature and extent of the activities of the Air Judge Advocate in the same manner as the type of client dictates the nature of the legal activity of the private practitioner. The Army Air Forces was assigned the mission of procuring and maintaining equipment peculiar to it and of providing Air Force units properly organized, trained, and equipped for combat missions. In the performance of this mission more than two million men have been trained, more than one hundred thousand planes pro-

cured, and bases established in all parts of the world. The Commanding General, Army Air Forces, in addition to his duties of command, is a member of the Joint Chiefs of Staff, which determines the strategic objectives and plans of the Allied armed forces. The Air Staff, of which the Air Judge Advocate is a member, keeps in close touch with the theaters of operations in order to see that production and training programs are geared to the changing requirements, and that planes and men fully equipped are on hand when, where, and in the types and amounts needed. Individually, members of the Army Air Forces had crossed enemy lines to carry the fight to the Axis 6,500,000 times by 31 December 1944. Operations so vast and in the comparatively new field of air warfare present many complex and novel legal questions.

There are now some 1200 legal officers presently on duty with the Army Air Forces in the continental United States. Army Air Force commands in the United States which exercise general court-martial jurisdiction now number 36. Overseas there are some 45 general court-martial jurisdictions manned by some 300 officers. It has been necessary to insure that the legal work of the Army Air Forces kept pace with the development of the Air Forces and was coordinated at all times. The Air Judge Advocate's Office has been geared to this end, and all major subcommands have been encouraged to submit vexing questions based upon the interpretation of the law and regulations.

In addition to the duties as staff judge advocate of the Army Air Forces the Air Judge Advocate acts concurrently as staff judge advocate of the Twentieth Air Force, the headquarters of which is located in the Pentagon, Washington, D. C., although its operations now are chiefly over Tokyo.

To carry out its functions the office of the Air Judge Advocate has been organized with two Assistant Air Judge Advocates and consists of an executive office and six divisions, namely, Military Justice, Military Affairs, Patents, Contracts and Claims, Litigation, and Legal Assistance. One Assistant Air Judge Advocate plans, directs, and supervises the activities of the Military Affairs and Military Justice Divisions, and the other Assistant Air Judge Advocate performs similar functions for the other divisions. At the present time there are twenty-seven officers, in addition to the civilian personnel, on duty. No enlisted personnel are assigned to the office.

The executive office, in addition to the usual duties of such an office, administers the selection and assignment of all legal personnel in the Army Air Forces, and maintains a law library and the records. A large body of precedents with a comprehensive digest of each have been accumulated and are available for reference in the library and records section, in addition to the more than twelve hundred law reports and texts which comprise the library proper. The extensive library and digest section in The Judge Advocate General's Office is conveniently located just across the Potomac River and is frequently used for additional research.

By arrangement with The Judge Advocate General, recommendations are made in the name of the Commanding General, Army Air Forces, in all dismissal cases

involving violations of flying regulations. Also, a running record is kept of all court-martial trials involving violations of flying regulations, including both dismissal and nondismissal cases, for the purpose of advising the Commanding General on policies designed to promote uniformity of sentences for this type of court-martial offense, and to further the flying safety program.

The types of disciplinary matters concerning military personnel which are usually referred for advice on legal procedures and policy considerations include, in addition to flying violation cases, reclassification proceedings, resignations of officers, punishments under AW 104, courts of inquiry, and administrative reprimands and admonitions. Reports of investigations conducted by The Air Inspector are referred for opinion and recommendation, and, frequently, proposed charges and specifications are drafted in connection therewith. Charges and specifications are also drafted upon request from the field, or opinion furnished prior to the preferring of charges, in those cases involving unusual violations of the Articles of War, or where there is doubt concerning the Army Air Forces or War Department policy involved. Habeas corpus cases and matters pertaining to the delivery of Army Air Forces personnel from and to the civil authorities for prosecution come to the attention of the office and appropriate recommendations are made. All requests for general court-martial jurisdiction by commands of the Army Air Forces in the continental United States are processed through the Air Judge Advocate and all such requests by overseas commands are referred by The Judge Advocate General to this office for recommendation. Many requests for information and clemency, Congressional and otherwise, are considered and appropriate answers prepared and forwarded. The office has a liaison officer assigned to War Crimes, a representative on the AAF Policy Evaluation Board, which was created to promote uniform procedure in the interest of flying safety, and representation on other agencies. Although there is no statutory review of records of trial, military justice matters constitute a considerable portion of the work of the office.

One of the unusual activities not customarily found in most judge advocates' offices is in the field of patent law. All searches to determine the patentability of inventions submitted by Army Air Forces personnel having military value to the Army Air Forces are made by members of the Patent Division. When inventions are received direct by this office they are submitted to the New Developments Branch, Engineering Division, Air Technical Service Command, for an expression of military value. If military value is found, the invention is processed to the Patents Liaison Branch located at Wright Field, Ohio, and placed on a "patent priority list," which is a complete list of all inventions to be handled by the Army Air Forces for patent protection. The inventive data in all cases in which a search is to be made, including those submitted to the Patents Liaison Branch through channels and not to this office in the first instance, are then submitted to this office and the patent search is made. After a favorable patent search most matters are then returned to the Patents Liaison Branch where the application for letters patent is prepared. All validity and title searches and other investigations necessary in the administration of contracts with respect to patents and patent rights are also conducted. A complete record of all patents taken out

by the Army Air Forces since World War I is maintained.

This office maintains a representative on the Army-Navy Patent Advisory Board, which advises The Commissioner of Patents concerning the secrecy of applications under the provisions of Public Law 700 (76th Congress), as amended, and engages in considerable activity as legal adviser to the Army Air Forces under the Executive Agreement between the United States and Great Britain entitled, "Interchange of Patent Rights for Inventions, Designs, or Processes."

Army Regulations provide that all claims arising in the Army Air Forces, which are transmitted to The Judge Advocate General, shall be forwarded through the Air Judge Advocate. Accordingly, all AAF claims over \$1,000, private relief bills arising from AAF activities, and appeals from the determination of claims in the field are examined by the Air Judge Advocate and are forwarded by him with his recommendation. Opinions and instructions relating to the investigation, reporting and settlement of claims, are furnished to the field. General supervision is exercised over the investigating and reporting of AAF claims, including the settlement of a very substantial portion of such claims at the approximately two hundred installations to which authority to settle such claims has been delegated. There are approximately 850 officers presently investigating and processing claims matters for the Army Air Forces, and it is estimated that 40 percent of all Army claims in the United States now arise within the Army Air Forces.

Copies of all reports of litigation involving AAF contractors which are required by War Department regulations to be sent to the Judge Advocate General are furnished this office. These reports are examined to determine if they are complete with respect to the information and documents required by applicable regulations. Where necessary the forwarding agency is requested to furnish additional information. Claims against cost-plus-fixed-fee contractors arising under federal and state labor laws are submitted for opinion as to whether they should be disallowed or settlement made by the contractors. Requests for the appearance of personnel as witnesses and for official documents and records for use in connection with litigation are cleared through this office.

All problems of a contractual nature which arise in Headquarters, Army Air Forces, are referred to this office for legal advice. In addition, many questions which arise in the field in connection with the administration and interpretation of Army Air Forces contracts are forwarded through channels for the opinion of this office. These questions involve the interpretation of federal and state laws, court decisions and regulations promulgated by the War Department. There are also referred to this office questions with respect to the disposition of property under the control of the Commanding General, Army Air Forces, including questions which arise under the Surplus Property Act and implementing regulations.

The Air Judge Advocate is charged with the general supervision of the legal assistance program within the Army Air Forces, subject to the general supervision of The Judge Advocate General. There are 575 officers performing legal assistance work, either as a primary or additional duty, within the Army Air Forces within the United States. The facilities of the Air Judge Advocate's Office are available to all Army Air Forces officers

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The Mission of ATC Staff Judge Advocates

By COLONEL ROWLAND W. FIXEL, JAGD

AIR Transport Command Army Air Forces, operates on a global basis. Headquarters is in Washington, D. C. Ferrying Division, one of the Divisions of Air Transport Command, with Headquarters in Cincinnati, has the responsibility for ferry delivery of aircraft throughout the world, domestic cargo operations, domestic air evacuation, training personnel for performance of such missions, and operation and maintenance of necessary domestic bases. In addition the Air Transport Command has the following foreign divisions with headquarters as indicated; Caribbean, at West Palm Beach, Florida; South Atlantic, at Natal, Brazil; North African, at Casablanca, French Morocco; Central African, at Accra, Gold Coast; India-China, at Calcutta, India; European, at London, England; North Atlantic, at Manchester, New Hampshire; Alaskan, at Edmonton, Alberta, Canada; and Pacific, at Honolulu, Hawaii. Each of these divisions operates many air bases and supplies messing, housing, medical, quartermaster, and other housekeeping services; provides weather, flight control, communications, and all other facilities incident to the ferrying and servicing of aircraft.

Each headquarters has a Staff Judge Advocate and assistants. Colonel Rowland W. Fixel is Staff Judge Advocate of Hq., Air Transport Command; Lt. Col. Sidney J. Berger of Caribbean Division; Capt. Jarrell Garonzik of South Atlantic Division; Maj. Henry B. Brennan, of North African Division; Maj. Rolland A. Kuckuk of Central African Division; Lt. Col. James E. Spier of India-China Division; Lt. Col. Darrell M. Hanna of European Division; Maj. Daniel J. Andersen of North Atlantic Division; Lt. Col. Allen G. Miller of Alaskan Division; Maj. Kenneth R. McDougall of Pacific Division and Maj. Herbert H. McCampbell, Jr. of Ferrying Division. The Staff Judge Advocates detail other Judge Advocates or Legal Officers to perform the legal work required at divisional bases. Each Division Commander has general court-martial jurisdiction and exercises such jurisdiction. General, Special and Summary Courts-Martial are established at practically all of the bases, and records are reviewed by divisional judge advocates. General court-martial records are forwarded either to The Judge Advocate General, Washington, D. C. or to the appropriate Theater Commander, in cases where the latter is given final authority to approve sentences.

There are 148 officers engaged in Judge Advocate and legal work in Air Transport Command, of which 44 are members of The Judge Advocate General's Department.

Col. Fixel, Staff Judge Advocate of Headquarters, Air Transport Command, was assigned to duty with the Air Transport Command (then the Ferrying Command) 15 December 1941. Previous to this assignment, Col.

Fixel had been on duty in the Office of The Judge Advocate General, Military Justice Section, and from 17 June 1941 to 13 December 1941 was Staff Judge Advocate of the Seventh Army Corps.

The Staff Judge Advocate of Headquarters, Air Transport Command supervises the administration of military justice throughout the entire command; acts as legal advisor to the Commanding General and his staff; and develops policies and procedures for the proper handling of legal work by the Judge Advocates of lower echelons.

By reason of the fact that Air Transport Command operates globally, and its various foreign divisions usually operate within one or more Theaters, many problems of relative responsibility between the Theaters and Air Transport Command have had to be solved. Also, the vast amount of construction of fixed installations; the application of foreign laws to various situations; foreign claims; the thousands of civilian employees overseas, and contractual relations with the civil airlines have given rise to a great variety of legal questions.

To supervise the administration of military justice in the entire command, it became necessary for Colonel Fixel and in many cases his assistants, to travel extensively, in order to familiarize themselves with the problems of the Judge Advocates in the field; to inspect office detail; meet personnel, and check the efficiency of the operation of lower echelon Judge Advocate activities. Colonel Fixel has flown over 85,000 air miles in the performance of these duties. Such flights have included trips to most of the domestic ATC legal offices; bases in Canada, Alaska, the Pacific and Australia; North Atlantic Division bases, including Labrador, Baffin Land, Greenland and Iceland; and air bases in the Caribbean, South Atlantic, Central and North Africa, India-China, and European Divisions.

In addition, his office personnel has aided various Divisional Staff Judge Advocates by performing temporary duty; furnishing instructional material and establishing adequate record systems and libraries. A digest of opinions rendered by the Headquarters, Air Transport Command Judge Advocate's Office is circulated to the field, in which appear digests of the more important decisions from upwards of 5800 office opinions rendered.

The volume of military justice work alone in the Air Transport Command is heavy. General Courts-Martial cases for a year number about 600; Special Courts-Martial about 2000; and Summary Courts-Martial, about 5500; punishments under AW, about 18,000.

The court-martial jurisdiction exercised by most Division Commanders is unique in that the bases in some of the larger divisions are in many cases as much as 4000 or more miles away from Divisional headquarters, and the only form of transmitting records and investigations is by air. The Pacific Division, for instance, extends from the West Coast of the United States to Hawaii and thence through a vast network of islands to the Philippines and Australia. The North African Division extends from Casablanca to the easterly part of Arabia. On every island where there is an air base, and in the deserts of Africa, the mountains of China and in the ice and snow regions of Greenland, Labrador and Alaska, there will

(Continued on Page 64)



COLONEL FIXEL

Report of Judge Advocates in China Theater

By LT. O. G. ANDERSON, JAGD

THE following is a list of Judge Advocates and their assignments at the present time in the China Theater:

Colonel Edward H. Young, former Commandant of the Judge Advocate General's School, at the University of Michigan, Ann Arbor, Michigan, is Theater Judge Advocate for the China Theater. Colonel Young has in his office as assistants Major Willis A. West and Capt. Paul J. Driscoll. Major West is of the 7th Officer Class, and Capt. Driscoll was in the 4th O. C.

Colonel Bert E. Johnson, Officer Class No. 1, who was the last Judge of the United States Court for China (22 USC 197b), while still serving in the Army, is still the Staff Judge Advocate for 14th Air Force under the command of Major General Chennault. Colonel Johnson has as his assistant, Captain "Ring" Lardner, Officer Candidate Class No. 2.

Lt. Col. Earl B. Swarner, Officer Class No. 7, Staff Judge Advocate, Services of Supply, China Theater, who was recently awarded the bronze star for meritorious service has as his assistants, Lt. Edward J. Murphy, Jr., Officer Candidate Class No. 8, and Lt. O. G. Anderson, Officer Candidate Class No. 3. Major James W. Innes, 15th Officer Class is Acting Staff Judge Advocate, while Lt. Col. Swarner is on TD in Uncle Sugar.

Lt. Col. John H. Hendren is Judge Advocate for the Air Service Command.

Lt. Col. James W. McRoberts is now Staff Judge Advocate for the Chinese Combat Command.

Colonel Edward H. Young has recently returned from an inspection trip to India at which time he visited Lt. Henry Dejarnette, Officer Candidate Class No. 3, Staff Judge Advocate, Services of Supply, Chabua. Also Capt. Southern, and Capt. David French and Lt. Hallahan. The return trip was made by Col. Young over the famous Stilwell Road by jeep. An interesting and arduous trip was reported.

The China Theater was recently honored by a visit from one of the members of the Branch Office of the Judge Advocate General, located in Delhi, India, in the person of Major Thomas G. Jones, Executive Officer. This visit was made in the interest of legal matters pertaining to the China Theater and Branch Office of the Judge Advocate General. Major Jones made the trip over the hump in fine shape and is now qualified to be properly called a "humper." The China Theater anticipates an early visit from Colonel William A. Bacon, Assisting Judge Advocate General in charge of the Branch Office at Delhi for discussions of legal problems affecting the China Theater.

All of the problems that have been encountered in other foreign countries arise in this theater with other new and complex problems peculiar to this theater, the Judge Advocates are called upon daily to render legal opinions in all phases of legal work. As a consequence a great deal of time and study is necessary in order to properly prepare this work.

A total of 11 Judge Advocates now comprise our organization for the entire China Theater.

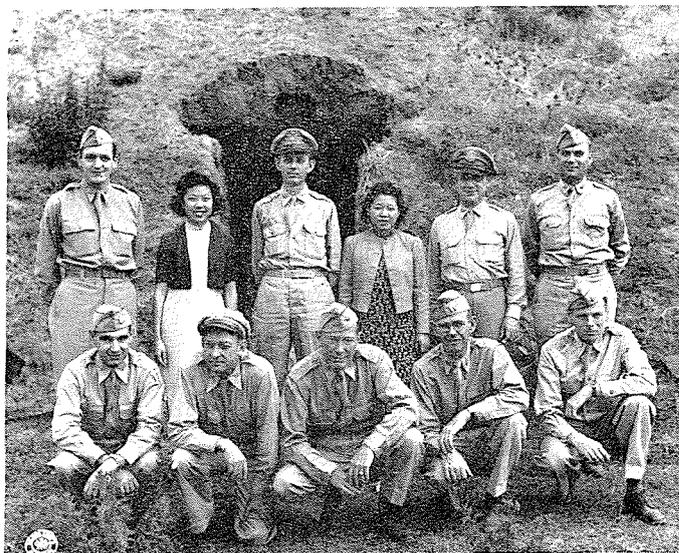
Frequently occasions arise during court-martial trials when it becomes necessary to adjourn the court, due to a jing bow (air raid). The members of the court and the accused all hit the slit trenches until the jing bow is over before resuming the trial.

For security reasons it is not possible to reveal many of the interesting experiences encountered by the JAGs in this theater, however, with so few Judge Advocates in such a large and heavily populated country it can be said when a little group gathers, it is a happy occasion.

In many respects we JAGs must concur with the popular opinion that this is a forgotten theater. For example, it is considered a high honor to have the use of a typewriter and a good clerk or a stenographer is something else. A command having a court reporter is "ding how" (O.K.)

As is known, transportation problems are many here and (when available) flying is rather hazardous.

It is believed the monetary system here now is most appalling in that in reviewing contracts which are made for payment of Chinese National Currency all are for millions and billions. Incidentally, an ordinary sandwich now costs you Chinese National Currency \$2,500.00. However, we JAGs are doing as Scarlett O'Hara would have done, to wit, "Let each day take care of itself," and sweat it out.



FRONT ROW, reading from left to right: Major Jim Innes, Lt. O. G. Anderson, Col. Edward H. Young, Capt. "Ring" Lardner, Lt. Ed. Murphy.

BACK ROW, reading from left to right: Lt. Col. James McRoberts, Miss Elaine Kwan (civilian secretary to JAG Section), Lt. Col. John H. Hendren, Mrs. Maisie L. Mark (civilian secretary to JAG Section), Lt. Col. Earl B. Swarner, Col. Bert E. Johnson.

Military Justice in Normandy

By CAPTAIN HERMAN M. BUCK, JAGD and CAPTAIN PATRICK H. FORD, JAGD

THIS ARTICLE is written in France, at an army camp, located many miles from any sizeable town, and most of the towns are shambles, reminiscent of the ruins of an ancient civilization. It is in Normandy, where traveling the narrow roads one sees little but the hedgerows to which the late Ernie Pyle has given such fame, and beaucoup apple orchards which no doubt inspired the popular American lyric "Apple Blossom Time in Normandy." The camp is a headquarters establishment. The offices and quarters are in Dallas huts, those portable wooden bungalows, with translucent windows and plenty of large cracks through which the frequent winds can whistle. As a place to live, they are of course a decided improvement over the tents which the army has used traditionally and still makes good use of in France and elsewhere.

The purpose of this article is description of the problems, operation and results of certain procedures and techniques of a District Staff Judge Advocate Office.

Beach District is a part of Normandy Base Section, which in turn, is a part of the Communications Zone of the European Theater of Operations. This article does not attempt to deal with the function of such an organization nor of the larger units of which it is a part. But a brief reference to its size, both in population and geographical area is necessary to grasp the Judge Advocate problems of such an organization.

Beach District resulted from a merger of two earlier districts, called Omaha District and Utah District, each of which was an outgrowth of the commands which performed the army service functions on the Normandy invasion beaches from D-day onward. It covers the French Departments of Manche, Calvados, and Orne.

At its creation, on March 1, 1945, it included the Normandy peninsula and certain adjacent areas. Its military population as of that date was over 50,000. The particular function and deployment of these troops is not important to this discussion, suffice to say that there were several hundred units, in some areas concentrated and in others only small detachments on special missions. This variegated group created numerous problems and required a rather flexible system of military justice procedure.

The Commanding Officer of Beach District does not have authority under Article of War 8 to appoint a General Court-Martial, but the Staff Judge Advocate Section was established upon his recommendation to make sure that no charges went forward to base section headquarters until they were in such shape as to be ready for reference to a trial judge advocate.

The Problems

Certain major problems confronted the Judge Advocate office at its beginning. In general, these may be summarized under several headings: 1. The backlog of court-martial charges not yet processed or tried, 2. The recurrence of numerous mistakes by the lower units which drafted the charges and conducted investigations under the 70th Article of War, 3. The delays which were occurring in the processing, investigation and trial of general court-martial charges, 4. The guardhouse and its problems, so closely connected with the proper administration of military justice, and 5. The problems of

personnel, to run the office, to be detailed as investigators, trial judge advocates, defense counsel, members and law members of courts-martial. The bulk of the work and the chief problems were connected with the general court-martial cases and the clearing of the guardhouse.

In the month immediately preceding the unification of Utah and Omaha the authors were assigned as Staff Judge Advocates of those districts. The ground-work for much of what came later had been laid even before the combination of the two areas and the creation of Beach District. At the time, four general courts-martial were meeting regularly in the area. The large number of untried cases accounted for a substantial portion of what we may call the guardhouse problem.

Beach District started with one guardhouse, again a combination of the population of the two previous districts and the original Normandy Base Section guardhouse. The guardhouse itself is an excellent organization and is set up in the old French Fort De Querqueville, near Cherbourg. A large part of its prisoners, on March 1, 1945, consisted of soldiers held for serious military and criminal offenses but who had not been tried. The number of such was eighty-two.

A third type of problem with which the District Judge Advocate had to wrestle was the constant stream of charges which channeled through Beach District Headquarters from lower units with recommendations for general court-martial trial. Previous observation of the charges from these same units during February had established that most of the errors and deficiencies in the charges and allied papers were of the same nature. No unit, of course, was perfect. And by the same token, none made all the kinds of mistakes which were observed. But a tabulation of the recurrent errors demonstrated that a little education to all units would greatly reduce the corrective action necessary in the Judge Advocate section.

The fourth challenging feature which stood out in the estimate of the situation made as the district began was the almost inexplicable delay which seemed to be occurring in the various phases of the course of processing of court-martial charges. Although no accurate statistics are available at this writing, the nature and extent of these delays will more fully appear in the later discussion of the methods by which the process of justice was greatly accelerated.

The fifth problem to be met concerned personnel. The Staff Judge Advocate Section had only two officers and three enlisted men. One corporal was a lawyer, an able member of the Prestonberg, Kentucky, Bar, now a candidate at the JAG OCS, 13th O. C. (Walter Scott Harkins III). He was assigned to handle legal assistance and inferior court supervision and reviews. This left the two officers free to devote substantially all their time to the general court-martial charges. The other two enlisted men were a chief clerk and a stenographer. As it was found that more clerical help was needed and that no further allotment could be obtained from higher echelons, gradually, during March, three prisoners of war were added to the office. One prisoner became the control clerk, kept certain records and made the charts which at a glance gave the current picture of the military justice situation in the district. Adaptions of some of the charts are included in the appendix hereto.

The Remedies

Faced with these problems it was evident that unless constructive corrective steps were promptly taken, the officers would devote all their time to the laborious and ineffective task of writing indorsements and skin letters calling for corrective action. Obviously in an office which processed 105 general court-martial cases, and reviewed 149 special court-martial records and 240 summary court-martial reports in its first month of operation, 50% of which required corrective action, its allotted personnel was woefully inadequate. And if they were to adhere to orthodox empire-building methods by clamoring for more personnel, typewriters, and reams of paper to produce the skin letters, the net result would have had no appreciable influence upon the condition of military justice within the district, or in solving the important and pressing problems of (1) the improvement in the condition of the charge sheet, allied papers and records of trials by inferior courts (2) elimination of unnecessary delay (3) avoidance of unnecessary restraint prior to trial, and (4) a better choice of courts-martial.

The lack of experience on the part of the men who drafted charges and allied papers had to be overcome if the court-martial system was to function efficiently in the hands of a civilian army whose education in practical military justice matters had been negligible. To those who had labored for seventeen weeks at the Judge Advocate General's Officer Candidate School studying the Manual by word, phrase, sentence, paragraph and page, and even then were unable to master the subject to the full satisfaction of Professors "Kidner, Finger, and Farr," it became obvious that the most conscientious commanding officers wanted and needed help on the practical aspects of military justice. Corrective action by letter indorsements and other "poop" had already been tried and had proved ineffective. It was still necessary to take corrective action in six out of ten cases, and in many cases charges were forwarded with recommendations for general court-martial which were obviously inferior court-martial cases. In a group of other cases, trial by special court-martial was selected where the punishment could not exceed that of a summary court. A plan that worked so successfully in Omaha District on a smaller scale was applied on a larger scale with variations to fit the problems of the enlarged Beach District. Each unit, including companies and detachments, was directed to send one enlisted man, preferably with legal or court-martial experience, to be known as the "Charge Clerk," and one officer, preferably the adjutant, as unit representatives to a Military Justice Conference. During eight successive nights, different branches of the service attending each night, not only were a variety of practical subjects covered, but there was distributed to each unit a military justice kit containing sample guides, aids, and forms, including the specimen records of trial by inferior courts published by the Judge Advocate General's Officer Candidate School, which have proved of inestimable value. At the conference the following matters were discussed: the Charge Sheet, Attached papers, the Charge Clerk, the Guardhouse, Confessions, Morning reports, AW 70 investigations, CID* reports, Sentinel Cases, Letter of Transmittal, Special Court-Martial Records, the SCMO, Action, Saving Paper, Rescinding and Dis-

* The Criminal Investigation Division, an army organization attached to the base section to make a police investigation of serious common law crimes.

solving Courts, Certificates of Correction, Summary Courts, Noncoms and Summary Courts, Foreign Pay Rule, Charges, Serious Offenses, Minor Offenses, Proper Choice of Court, Misbehaviour of Sentinels, Conserving Manpower, and Suspended Sentences. The conference was the first step. Now the men in each unit who were responsible for the preparation of the charge sheet and allied papers not only knew what was expected, but they had the necessary aids and practical guides to assist them, collected into a single Military Justice Kit, now containing some 73 pages. Its table of contents lists the following inclosures: Proceedings of Military Justice Conferences, SOP on Punishment of PsW, Pertinent extracts from Daily Bulletin relating to military justice, Proof of AWOL in Courts-Martial, Check List for Charges, Certificate of Correction, Outline of Special Court-Martial Procedure, Guide for Special Court-Martial Trials, Model Record of Trial by Special Court-Martial, Beach District Guardhouse Circular, and fourteen simplified forms which were prepared as an aid to lower units and distributed, including a Summary Court Charge Sheet with a mimeographed report of trial which requires merely that certain blanks be filled in and any inapplicable matters be crossed out and initialed.

Thus began the campaign started to make the district military justice conscious. There was created, as one unit commander remarked, the feeling "that my handling of military justice matters and the discipline within my unit is under constant but friendly observation." Also supplied were forms for nearly every other common step in the processing of charges for trial by general court-martial. Certain further aids were also distributed to every unit, for example, an outline and guide for special court-martial trials, adapted from McComsey's "Outline of Procedure," which was never available in sufficient quantities to supply all officers sitting in inferior courts. A letter detailing the law of evidence applicable to proof of absence without leave showed the units how simply the usual AW 61 case could be proved, thus saving a great deal of time previously wasted in calling numerous witnesses to prove the detailed search, the lack of any pass or furlough, and other such correlated but unnecessary issues.

As a result of specific instruction from the Commanding Officer of the district, other reforms were instituted. Colonel Eugene M. Caffey of the Corps of Engineers, a veteran of the Moroccan Invasion, Tunisian, Sicilian, and Naples-Foggia campaigns, who commanded the First Engineer Special Brigade at the Invasion of Utah beach was formerly a member of the Judge Advocate General's Department and the Staff Judge Advocate of the Fourth Infantry Division, with which division, he and his brigade landed at H-hour on D-day. Colonel Caffey takes the position that his Judge Advocates should never send a case back to a lower unit if the necessary corrections can be made, or the needed additional information obtained directly in his headquarters. On occasion therefore, the charge sheets are completely redrafted, a new accuser obtained, and new AW 70 Investigation conducted. Further investigations are frequently conducted by telephone. No time is wasted in "skinning" lower units. The Judge Advocate's Office is a lawyer's office, and every soldier and unit is looked on as a client. At the conference, all units were invited to visit or phone the office on any military justice problem. Many of the units have taken frequent advantage of this invitation.

A control system to discover and eliminate delays was instituted and has been revised from time to time. The principal features are a requirement that every unit report promptly by phone the occurrence of any serious offense and the filing of any type of court-martial charges. When the unit calls, the status of the charges is determined and any necessary advice is furnished. Delays are eliminated by this direct communication. Particularly important, it is believed, is the psychological result—the unit commander knows he is being watched and checked on closely. He knows where his papers are going, that the object is to help him, that if necessary he can come to the office or send his clerk. Unit commanders appreciate this aid, and considerable cooperation has resulted. The charges must reach district headquarters within five days after the offense occurs, or in case of absence, for example, the accused returns to the military control of his organization.

Further controls relate to the guardhouse administration. Feeling that it is a Judge Advocate responsibility to see that persons are not confined unnecessarily awaiting trial, the untried prisoners were interviewed. Many were soldiers who had committed serious offenses and had been left behind following the St. Lo breakthrough. Where there had been unnecessary delay in preferring charges, in some cases for more than six months, or the soldiers had been confined for alleged offenses for which, even if they were convicted, they would deserve no further confinement, the accused prisoners were released and the charges dismissed, after examination of the files of the Criminal Investigation Division showed that there was no reasonable basis for continued confinement. Others were tried by inferior courts. To further assist in clearing up the backlog, the Judge Advocates had themselves appointed trial judge advocates. Together they tried twenty-three general court-martial cases between April 2 and May 7. In addition, direct and time-conserving assistance was given to the other trial judge advocates in eight of the other cases. As a further control, persons confining prisoners are required to sign a certificate that charges will be filed within twenty-four hours or a written explanation of the delay submitted. Thus far no explanations have been necessary. The district guardhouse makes a daily report on the prisoners admitted awaiting trial by general court-martial, and submits a weekly consolidated report. If ten days have elapsed and no charges have been received in district headquarters, the unit commander is phoned for an explanation.

The various controls have been effective and have substantially contributed to the large reduction in the number of prisoners awaiting trial by general court-martial—four at this writing, none of whom has been in confinement for more than two weeks.

The Results

The resultant improvement in the military justice work of the district has been very noticeable. In short, few corrections are now necessary in charges processed through this office, the investigations are usually complete, time has improved tremendously, some charges reach the district headquarters within forty-eight hours after the offense occurred and the guardhouse has been cleared of old, untried cases.

It is felt that if things had been allowed to drift, if no initiative had been shown in dealing with the district problems, the work channeled through this office could

not have been handled by the personnel available and that the time delays would have continued on an unsatisfactory level. The following progress report reflects that improved condition:

1. General Court-Martial Charges:

	March	April	May
New charges processed.....	74	47	22
Other charges	31	7	3

Total 105 54 25

Cases forwarded for GCM.. 38 23 11

General Court-Martial cases per 10,000 troops:

March 8 or 1 per 1282 troops

April 5 or 1 per 2000 troops

May 3.3 or 1 per 3000 troops

Average processing time for General Court-Martial Charges:

From date of offense to date forwarded to NBS by this headquarters:

March 40 days

April 12½ days

May 10 days

Time in office of Staff Judge Advocate:

March 1¼ days

April ¼ day

May 1 day

2. Special Court-Martial Cases:

	March	April	May
Records reviewed	149	107	78

Records received per 10,000 troops:

March 30 or 1 per 336 troops

April 26 or 1 per 365 troops

May 24 or 1 per 410 troops

3. Summary Court-Martial Cases:

	March	April	May
Reports reviewed.....	240	149	116

Reports received per 10,000 troops:

March 48 or 1 per 208 troops

April 37 or 1 per 270 troops

May 35 or 1 per 285 troops

4. Average time prisoners confined in District Guardhouse awaiting trial by General Court-Martial:

Date	Prisoners confined	Average time	Range
1 March	56	47 days	up to 155 days
22 March	67	37 days	up to 172 days
3 May	7	13 days	up to 42 days
26 May	2	15 days	up to 21 days

Conclusion

A little education on basic courts-martial procedure emphasizing the practical aspects, the distribution of sample aids and guides on matters that experience showed were troublesome, an effective system of control, and the liberal use of the services of the Judge Advocate Section had proven highly beneficial and effected a marked improvement in military justice matters.

However, another important factor should not be overlooked. There is a direct, daily personal contact between the commanding officer, Colonel Caffey, and the Judge

(Continued on Page 66)

Third Annual Judge Advocates Conference

HELD AT ANN ARBOR

THE third annual Judge Advocate General's Conference, attended by 49 high-ranking judge advocates from the continental United States and overseas, was held at the Judge Advocate General's School, Ann Arbor, Michigan, 22 May through 24 May 1945.

Major General Myron C. Cramer, The Judge Advocate General, presided at all sessions of the three day conference which was attended by four general officers.

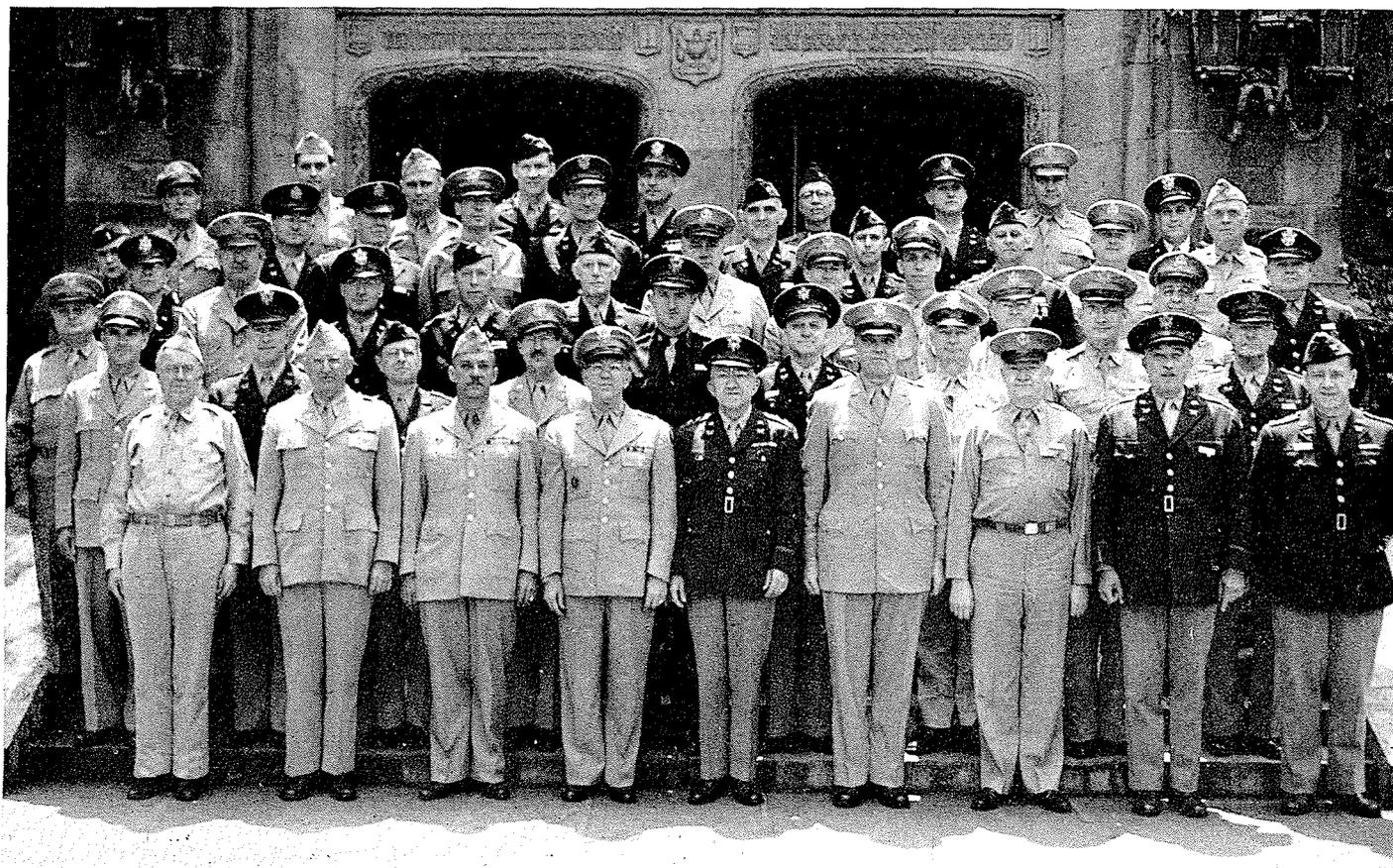
The conferees arrived at the Law Quadrangle throughout Monday and Tuesday morning. Formal ceremonies commenced at 0930, Tuesday, 22 May with a welcome from Dr. Frank P. Adams, Provost of the University of Michigan, speaking on behalf of Dr. Alexander G. Ruthven, President of the University. Dr. Adams was followed by E. Blythe Stason, Dean of Law, who welcomed the conferees on behalf of the Law School. Colonel Reginald C. Miller, Commandant of the Judge Advo-

cate General's School, then welcomed the conferees to the School.

In his opening remarks General Cramer observed that:

"More than a year has passed since our last conference, and much has happened in the field of our military law. This year's program is arranged to bring you up to date on current developments and also to allow more time for discussion between the conferees. I sincerely hope that the time spent in discussion and exchange of views and opinions will enable you to gain the maximum benefit from the conference and to take back with you the latest information on matters in which you are particularly interested."

Colonel Rudolph E. Kunkel, JAGD, Chief of the Military Justice Division of The Judge Advocate General's Office, was the first speaker on the conference program. He discussed various matters of current interest in the field of justice and court-martial procedure. His remarks were followed by an extended period of discus-



Conferees at Judge Advocate Conference, Judge Advocate General's School, 22-24 May 1945.

1st Row: Col. Archibald King, Col. Hubert D. Hoover, Col. Ernest N. Brannon, Brig. Gen. Lawrence H. Hedrick, Maj. Gen. Myron C. Cramer, Brig. Gen. Blackshear M. Bryan, Jr., Col. Franklin P. Shaw, Col. Frank E. Shaw, Col. Sumner W. Elton.

2nd Row: Col. William J. Wilkins, Col. Reginald C. Miller, Col. Louis R. Shaffer, Col. A. Wood Rigsby, Maj. Ellis L. Gottlieb, Col. Oscar R. Rand, Col. Arlo A. Emery, Col. Marion Rushton, Col. Henry Harmeling.

3rd Row: Maj. Herbert H. Lind, Col. Arthur N. Ziegler, Col. Thomas K. McElroy, Lt. Col. John H. Doughty, Lt. Col. Arnold J.

Van Borkum, Col. Paul S. Jones, Col. Charles M. Dickson, Lt. Col. Eugene G. Cushing, Col. Lewis C. Magnusen, Col. John J. Honan, Col. Rowland W. Fixel, Col. Thomas J. White.

4th Row: 1st Lt. Sherwin T. McDowell, Maj. Joseph Dainow, Col. James F. Hanley, Lt. Col. John J. Jones, Col. Rudolph E. Kunkel, Maj. Warren M. Briggs, Maj. George R. Wearing, Col. Charles W. West, Col. Ralph G. Boyd, Col. Burritt H. Hinman.

5th Row (left to right): Lt. Col. Ira M. Tipps, Maj. Randolph Karr, Maj. Harold L. Westin, Lt. Col. Anthony Kane, Col. Desmond O'Keefe, Lt. Col. John Dart, Col. Arthur Levitt, Col. Neal D. Franklin, Col. Leonard R. Hanower.

sion among the conferees during which views were freely exchanged with respect to matters commented on by Colonel Kunkel. The morning session was rounded out by an address by General Cramer on equalization of court-martial sentences, reprinted in full elsewhere in the JOURNAL.

Colonel Marion Rushton, AGD, Chief of the Correction Division of The Adjutant General's Office, was the first speaker of the afternoon session. He spoke on clemency matters. Colonel Rushton was followed by Major George R. Wearing, JAGD, Chief of the Miscellaneous Branch of the Military Affairs Division of the Office of The Judge Advocate General, who discussed various current military affairs problems. Discussion from the floor by the conferees followed both addresses. The first day's session closed with a half-hour open forum discussion period during which conferees brought up any points they desired to present to the conference for discussion. This open forum period was made a regular feature of the program and was approved by all conferees as adding to the value of the conference.

The session on Wednesday was opened by Colonel Hubert D. Hoover, JAGD, Assistant Judge Advocate General in charge of BOJAG, MTO, who discussed military justice in North Africa and Italy as well as problems faced by the branch offices of The Judge Advocate General in overseas theaters. Lieutenant Colonel Anthony Kane, JAGD, Executive, and Chief of Military Personnel and Training Division, Judge Advocate General's Office, followed Colonel Hoover and discussed JAGD personnel problems.

The morning session of the second day was concluded by Colonel Ernest M. Brannon, JAGD, Judge Advocate of the First Army, a surprise visitor at the conference, who spoke on problems facing judge advocates in the field, particularly in the higher echelons. He recounted his experiences as a staff judge advocate with an invading army from England into Normandy, through France and into Germany. Colonel Brannon took the place on the program originally assigned to Lieutenant Colonel Alva C. Carpenter, JAGD, Office of the Staff Judge Advocate, USAFFE, who was scheduled to attend the conference, but because of unavoidable delay en route did not arrive from his overseas station in time to be present.

Brigadier General Blackshear M. Bryan, Jr., Assistant Provost Marshal General, spoke on problems relating to the handling of prisoners of war. He was followed by Colonel Ralph G. Boyd, JAGD, who pointed up a discussion on claims which proved lively and carried over into the open forum period.

Colonel Archibald King, JAGD, Chief of the International Law Division, Judge Advocate General's Office, opened the concluding day's session with an interesting discussion of current international law problems. This was followed by a discussion of problems facing the various services. Brigadier General Lawrence H. Hedrick, the Air Judge Advocate, discussed Air Force problems. Ground Force problems were discussed by Major Harold L. Westin, JAGD, Staff Judge Advocate of the Second Army, and Colonel Thomas J. White, JAGD, Staff Judge Advocate of the Ninth Service Command, discussed Service Force problems. This discussion of special problems was rounded out by Colonel Arthur Levitt, JAGD, Staff Judge Advocate of the New York Port of Embarkation, who spoke on port of embarkation problems, particularly those that will arise from large scale redeployment.

The final afternoon session was devoted to a discussion of war crimes by Brigadier General John M. Weir, Assistant Judge Advocate General, in charge of the National War Crimes Office. General Weir, who had just returned from a field trip to London and the Continent, highlighted his talk on this subject, in which current interest is running high, with a report on his trip.

General Cramer commented on certain items not previously mentioned in the sessions and then formally closed the conference, expressing the opinion that it was successful in all respects.

The conferees were quartered in the Law Quadrangle and messed at the Lawyers Club. On Wednesday evening they were the guests of Mr. Orville H. Foster, Jr., Vice President of the Detroit Bar Association, for supper at his cottage on Strawberry Lake, twenty miles outside of Ann Arbor.

Major Randolph Karr, JAGD, Conference Manager, was in charge of all planning for the conference and handled all arrangements at Ann Arbor. Major Joseph C. Dainow, JAGD, acted as Recorder and supervised the preparation of the record of the conference. He was assisted by Captain John H. Finger, JAGD, Captain John G. Stephenson, III, JAGD, and First Lieutenant John H. Morse, JAGD, of the faculty of the Judge Advocate General's School.

Lieutenant Colonel William A. Stewart, JAGD, of the Judge Advocate General's School faculty served as liaison officer between the School and the Conference Manager; Major Thomas A. Richardson, Infantry, assisted by First Lieutenant Norman Roth, JAGD, handled all processing of the conferees and Captain Erwin F. Mast, QMC, assisted by First Lieutenant Gilbert A. Cuneo, JAGD, was in charge of transportation and supply matters.

The following is a list of the officers who attended the conference:

- Boyd, Ralph G., Colonel, JAGD, Office of The Judge Advocate General, Army Service Forces, Washington, D.C.
- Brannon, Ernest M., Colonel, JAGD, Hq. First Army.
- Briggs, Warren M., Major, JAGD, Hq. Hampton Roads Port of Embarkation, Newport News, Virginia.
- Bryan, Blackshear M., Jr., Brigadier General, USA, Office of The Provost Marshal General, Army Service Forces, Washington, D.C.
- Cramer, Myron C., Major General, USA, The Judge Advocate General, Washington, D.C.
- Cushing, Eugene G., Lieutenant Colonel, JAGD, Hq. New Orleans Port of Embarkation, New Orleans, Louisiana.
- Dainow, Joseph, Major, JAGD, Office of The Judge Advocate General, Army Service Forces, Washington, D.C.
- Dart, John, Lieutenant Colonel, JAGD, Hq. Charleston Port of Embarkation, Charleston, South Carolina.
- Dickson, Charles M., Colonel, JAGD, Hq. Third Service Command, Baltimore, Maryland.
- Doughty, John H., Lieutenant Colonel, JAGD, Hq. Western Defense Command, Presidio of San Francisco, California.
- Elton, Sumner W., Colonel, JAGD, Hq. First Service Command, Boston, Massachusetts.
- Emery, Arlo A., Colonel, JAGD, Hq. A.A.F. Western Flying Training Command, Santa Ana, California.
- Fixel, Rowland W., Colonel, JAGD, Hq. Air Transport Command, Washington, D.C.
- Franklin, Neal D., Colonel, JAGD., Hq. A.A.F. Training Command, Fort Worth, Texas.
- Gottlieb, Ellis L., Major, JAGD, Hq. A.A.F. Tactical Center, Orlando, Florida.
- Hanley, James F., Colonel, JAGD, Hq. Fourth Air Force, San Francisco, California.

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JAGS Alumni NOTES

The Editorial Board of the Judge Advocate Journal invite our readers to submit articles for publication.

The Executive Secretary of the Association requests that all members inform him of any change of home address and/or mailing address.

Any member of The Judge Advocate General's Department who has not yet joined the Judge Advocates Association is invited to join. A letter of application addressed to the Executive Secretary, Judge Advocates Association, 1225 New York Avenue, N. W., Washington 5, D. C., will bring immediate attention.

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The following is a collection of notes culled from the columns of THE ADVOCATE, bulletin of The Judge Advocate General's School, concerning the activities of members of the Department who are alumni at the school.

1st OFFICER CLASS

Lt. Col. Charles P. Muldoon has been transferred from the JAGO to the Office of the Secretary of War for duty with the Secretary of War's Separation Board.

Maj. Edwin L. Baron is Staff JA at Camp Stoneman, Calif., and among other duties, attends to the processing of numerous claims at the staging area.

3rd OFFICER CLASS

Lt. Col. Jesse M. Johnson, whose course at the CATS in Ann Arbor was cut short a week or two before his class finished training, writes that he is located on Oahu, T.H., with the 13th Replacement Depot. It is sunny and summer uniforms are being worn.

Lt. Col. James H. Ross is president of United States Foreign Claims Commission No. 20 on duty at Headquarters, Africa Middle East Theater at Cairo, Egypt.

Maj. Malcolm C. Sherman is a member of Board of Review No. 3 at BOJAG, ETO.

Maj. Bert E. Church is litigation officer of the Seventh Service Command with offices in the United States Court House, Kansas City, Mo.

Maj. John T. Pearson is Staff JA at IRTC Camp Wheeler, Ga. Maj. Pearson served for some time in the Claims Division, JAGO.

4th OFFICER CLASS

Lt. Col. Byrne A. Bowman writes from Belgium where he is Division Staff JA for an infantry division which was in the thick of things in the Battle of the Bulge. He says that 2nd Lt. William L. Whalen (6th OC) has been his assistant since the division arrived in England and has done a creditable job on many assignments, including taking command of a clerical detachment in foxholes and handling the last shuttle convoy of the rear echelon at a time when it was "more or less exposed."

Maj. Wendell L. Garlinghouse is now assigned to 3610 SCU, Percy Jones General Hospital at Battle Creek, Mich.

Lt. Col. John W. Hill is a member of Board of Review No. 2 at BOJAG, ETO, and Lt. Col. William F. Burrow is a member of Board of Review No. 1 in the same office.

5th OFFICER CLASS

Maj. "Oz" Fitts is still taking pictures—this time in Paris, where he is on duty with the Claims Section, Headquarters Communication Zone. His biggest "hauls" have been Churchill, de Gaulle and Eden with Gen. McNeil his top Yank. Maj. Fitts says that he and Capt. Anthony Julian (1st OC), former assistant executive officer at the school, were reminiscing recently about moving pictures Maj. Fitts took of school activities in Ann Arbor about a year ago.

Lt. Col. Trueman E. O'Quinn is Staff JA for an airborne division that has been figuring in the news from the Western Front.

Lt. Col. Laurence W. Hall has been named service command legal assistance officer for the Sixth Service Command.

Lt. Col. John H. Awtry is Acting Chief of the Foreign Claims Branch, Claims Division, JAGO.

6th OFFICER CLASS

Capt. Arkley W. Frieze writes that he is on duty at the Branch Office for the Mediterranean Theatre "somewhere in Italy." He says

that he enjoys reading about school activities and the news about officers he knew there.

Maj. Harold L. Holland is stationed at the JA Office, Wright Field, Ohio, assigned to the Military and Civil Affairs Section. Maj. Holland's previous assignment was at the Western District ATSC, Los Angeles, Calif.

Lt. Col. James P. Speer is Staff JA at Headquarters, Mobile ATSC, Brookley Field, Ala.

Lt. Col. Bruce Shorts, Jr., is JA with a division forming part of the Ninth Army in Germany. His father, Bruce Shorts, Sr., died in Seattle, Wash., recently where he was a prominent member of the bar.

Maj. Joseph F. O'Connell, Jr., writes from far away New Caledonia that his wanderings have carried him as far south as Christchurch, New Zealand, where he had the unusual war time distinction of being the lone American in the city. He states also: "For a period I was the sole member of the JAGD in the entire Dominion, which assignment I can highly recommend for multiple reasons. Currently I am in the French colony of New Caledonia, where French lawyers continue to don the traditional red robe with the ermine collar no matter what the bubbling thermometer tallies."

Maj. Benjamin H. Dewey, Jr., is a member of Board of Review No. 3 at BOJAG, ETO.

7th OFFICER CLASS

Maj. James I. McCain is on duty at Headquarters, Central Pacific Base Command, Office of the Staff JA, and devotes most of his time to military justice and military affairs matters.

8th OFFICER CLASS

Maj. James A. Bell is District JA at AAF, ATSC, Midwestern District, Wichita, Kans.

Maj. Walter L. Bruington is on terminal leave from the JA office, Wright Field, Ohio.

Lt. Col. Roger D. Branigin has been transferred from Cincinnati, Ohio, his former station, to the office of the Chief of Transportation where he is Chief of the Legal Division.

9th OFFICER CLASS

Maj. Ralph W. Yarborough writes that he is now overseas with an infantry division of which he is the JA.

Capt. Roy H. Steele is acting staff JA at Camp Beale, Calif. He reports that the assignment is interesting and that he sees a number of JAGD officers pass through his office on the way overseas.

Maj. Sidney A. Wolff is now the JA at Camp Myles Standish, Mass. His assistant is Lt. Morris Berman (8th OC).

Maj. Harold Westin is JA of the Second Army and Capt. Robert L. Claire, Jr., (6th Officer Cl. and former member of the JAG School Staff and Faculty) his executive officer.

Lt. Col. Frederick J. Lotterhos and Maj. John Dickinson are stationed in Hawaii.

Maj. John N. Calhoun writes from Camp Atterbury, Teheran, Iran, that he has been transferred there from Headquarters, Persian Gulf Command. He is assigned to the 3rd Military Railway Service. He says: "I have been a railroad lawyer to a small extent and have been a military lawyer since my transfer to the JAGD in February 1942 but this is the first time I have been a military railway lawyer. I guess maybe it is the first time there has been one, as the T/O so far hasn't been amended to officially provide for one, but like the fellow in jail, 'I'm here.' Our winter is gradually giving way to spring now, but we still have some of the most penetrating winds I've ever felt. Was fortunate enough to get home for 21 days recently. Those 'U.S.' really look good."

10th OFFICER CLASS

The work of Maj. Stuart B. Bradley in handling marine claims in the ETO came in for praise from Col. Clarence W. Miles (8th Officer Cl.), Deputy Chief of the Claims Service and Director of the Claims Investigation Service for France, Holland, Belgium, Luxembourg, and Germany, when the latter was here recently. Maj. Bradley specialized in admiralty law in civilian practice.

Alfred C. Heinicke is a captain. At last report he was on duty at the POE, San Francisco, Calif.

Capt. Marion S. Francis writes that he has arrived at his overseas destination. Capt. Francis is assistant staff JA of an infantry division.

Capt. Henry C. Remick writes from Italy that work has increased greatly. One of his recent assignments as a member of the Board of Review in the office of the Judge Advocate for the Mediterranean Theatre was the review of a large record of the trial of 16 accused, containing 898 pages and 750,000 words.

Maj. Harold W. Sullivan now is on the staff of The Disarmament School, NATOUSA.

Capt. Kenneth S. Treadwell is assistant staff JA with an infantry division with a west coast APO address.

Lt. Col. Martin Her writes that he has a very interesting assignment as Staff JA of the 1st Division of the Eighth Air Force. He says: "Last week I spent three days in Paris. Saw Gen. McNeil and Gen. Betts of our Department. Paris is beautiful in April. Saw all the sights, the Folies Bergere, the Casino de Paris, and the opera 'Faust.'" Capt. Malcolm A. Crusius (12th Officer Cl.) and Capt. Richard J. Kent (1st OC) are in Col. Her's section. "It is trite to say that the school is the only solid foundation for JAG work," Col. Her states, "but it's true."

Capt. Alfred Heinicke writes from Headquarters, Western Defense Command, where he is assistant staff JA, that he has been assigned to process all claims and investigate all accidents in which Army vehicles used in connection with the United Nations Conference are involved. Since there are 175 enlisted men and about 300 civilians driving the vehicles, he anticipated plenty of business.

He reports that he talked with Arch Ekdale recently. The latter is at Fort Mason, having returned from an overseas trip in connection with military justice problems of Army transports.

1st Lt. Morris Weller is Claims JA at Headquarters, Eighth Service Command. He is assisted by 2nd Lt. Frederick E. Watson (8th OC).

11th OFFICER CLASS

Maj. Jay A. Lane writes that he is staff JA for the 62nd General Depot, Unit Training Group, 9136 TSU, QMC, at Camp Lee, Va. He has previously served with the XIII Corps and as executive of the JA Section at Headquarters, Third Service Command.

Maj. Leigh M. Clark has left Wright Field, Ohio, where he has been stationed for some time and is enroute to an assignment overseas.

Joseph S. Robinson has been promoted to the grade of major. When last heard from Maj. Robinson was on duty in Hawaii.

13th OFFICER CLASS

Capt. Abbie Y. Holesapple is on duty in the JA office, Midwestern District, ATSC, Municipal Airport, Wichita, Kans.

Charles P. Gotwals is assigned to the JA section at Headquarters for Luxembourg District, Oise Sector, where he happens to be the Staff JA for an entire country, Luxembourg. Not so far away and in Lorraine District is Capt. Preston W. Jones (6th OC) as Staff JA. By strange coincidence, both come from the same town in Oklahoma, Muskogee. Lt. Col. Dean E. Ryman is Staff JA at Oise and Lt. Col. Charles T. Shanner (8th Officer Cl.) is there too.

Capt. Charles T. Bloodworth, Jr., is Claims JA at AAF Headquarters, Spokane ATSC. His assistant is 1st Lt. Carrol G. Henneberg (6th OC). Lt. Col. David F. Foster is JA for the command.

Maj. Leonard W. M. Zingler is executive of the JA section at Headquarters, Second Air Force, Colorado Springs, Col.

1st Lt. John J. Dreyer is now on duty in the office of the Staff JA at Headquarters, Eighth Air Force.

14th OFFICER CLASS

Maj. Glenn V. Walls, AC, is on duty with the Readjustment Division, ATSC, Termination Section, Wright Field, Ohio.

Capt. Robert K. (Buster) Bell writes that he is in Paris in the office of the JA for the European Theater. He arrived at the office back in London on the same day the first buzz bomb arrived in that city. He says that "after dodging those things for three months the office moved to Normandy late in August," and then on to the "Gay Town," being among the first service troops to arrive in the French capital. He sees his classmate, William H. McElwee, now a captain, quite often, and adds, "I have also run across Lt. John F. (Lightning) Curran's name ever so often on courts or in records from Brittany Base Section. Lts. Douglas N. Sharretts (4th OC), Charles Sapp (4th OC), and Donald K. Carroll (3rd OC) are in the branch office. Saw Peter J. (Muscles) Flannagan (4th OC) in London just on leaving there. Lt. William O. Gordon (4th OC) gets in occasionally. Lt. Clay V. Spear (4th OC) is with one of the Armies and apparently is being kept very busy. Maj. Jesse F. Warren is back in the woods somewhere investigating."

"I hear from Capt. Francis R. (Jr.) Boyles, Capt. John J. (Ragtime Knucklehead) Barry, Capt. Dick Harris, Capt. Herb Lazarus, Maj. Doug McDonald, Capt. Ed Sales occasionally. Barry, Hanna and Sales are on overseas assignments." Capt. Bell notes, and adds that he is writing reviews and actions for the signature of Gen. Eisenhower, observing that he is sure that Capt. John H. Finger (S & F) will now have the idea that military justice in ETO is "going straight to hell."

Capt. John B. Tuck, Jr., writes that he is now Post JA at Camp Davis, N.C. His assistant is 1st Lt. Thomas J. Murphy (7th OC) who is also Post legal assistance officer.

Lt. M. L. Dresner has been with the Division Engineer, Dallas, Tex., for about six months. His duties require him to travel frequently to Oklahoma, New Mexico, Arizona and Louisiana.

15th OFFICER CLASS

1st Lt. Daniel J. Hallaban is assistant staff JA on the staff of Gen. Pick who is in charge of the construction of the Ledo Road.

1st Lt. J. L. Lenahan O'Connell writes that he is now at Base "G" somewhere in the Pacific, and is assistant staff JA. The staff JA is Capt. Charles L. Wolfe (11th Officer Cl.) and "a native of Houston, Tex., with special emphasis on Texas." Lt. O'Connell reports receiving a letter from Lewis M. Dickson of his class that the latter is now a captain with an infantry division on the western front.

Captain Henry G. (Firestone) Connor and Captain Frank J. (Major) Dugan are now Executive and Asst. Executive respectively to Colonel William A. Rounds, the Assistant Judge Advocate General in Charge of Military Justice Matters. "Firestone" reports that the military justice situation is well in hand but that he has a hard time with the "Major" who is always trying to pull his rank on the colonel. Speaking of rank, associates will be interested to know that Dugan has spent less time as 1st Lt. and Capt. together than he did as a 2nd Lt. The "Major" says, "A T/O outfit is a great thing to be out of." "Firestone" reads only AR's and Circulars pertaining to promotions, having particularly in mind items relating to time in grade, of which he has a lot. More, in fact, than the redheaded children of which he constantly brags.

Capt. William C. Burns is headed for the Pacific and rumor bath it that he is a benedict confidentially.

Maj. James W. Innis is also headed for the Far East, after a tour of duty at JAGO since his graduation from Command and General Staff School last spring.

Capt. John C. Herndon writes from Camp Butler, N.C., where he is Station JA for Army Ground and Service Forces Redistribution Station, that his duties include considerable attention to claims matters. A number of claims for returnees, both officer and enlisted personnel, have been processed, he says.

16th OFFICER CLASS

Maj. Robert W. Wilson, assistant staff JA at Headquarters, Africa-Middle East Theatre in Cairo, Egypt, writes that Col. Edward H. Young, former School Commandant, stopped off there on his recent journey to take up his post in Chungking, China. Maj. Wilson says that he, Col. Young and Col. Paul H. McMurray, Staff JA of the theatre, had a get together.

17th OFFICER CLASS

Capt. James S. Craighill writes from "somewhere in Germany" that "our JA office is continuing to follow the armies into Germany and running into many new and interesting experiences as well as plenty of work every day. I am writing from the kitchen of one of the fortunately undamaged German houses, the kitchen being shared as an office by Maj. Frank McNamee (8th Officer Cl.), Lt. Harley H. Stipp (3rd OC) and myself. Maj. McNamee is the head of our 'Military Justice Section' which we think is establishing some new records in turning out general court-martial cases. Col. E. A. Levy is our Staff JA.

18th OFFICER CLASS

Maj. Lloyd A. Watt is staff JA at the IRTC, Camp Wolters, Tex. Major Mac McKeown is leaving for an overseas assignment. He was formerly at McDill Field in Florida.

Bill Asch returned recently from TD in San Francisco in connection with ATC activities.

Capt. Hugh B. Archer has left JAGO for a new outfit in the South. Major Charles P. Henderson is in the Pacific.

19th OFFICER CLASS

1st Lt. Edward K. Beard is the staff JA at The Cavalry School, Fort Riley, Kans.

1st Lt. William E. Timberlake has been relieved from his assignment from JAGRP, Headquarters, Fourth Service Command, and is now assigned to the Industrial Personnel Division, Headquarters, ASF.

Capt. Luke A. Burns, Jr., says that he is now assigned to BOJAG for the European Theatre.

1st Lt. Luther A. Pyle is now assigned to SCU 1489 at Kennedy General Hospital, Memphis, Tenn. Lt. Pyle went to his new assignment from Headquarters, Fourth Service Command.

20th OFFICER CLASS

1st Lt. Patrick J. Fisher is on duty at Headquarters, 1214 SCU, AG&SF Redistribution Station, Atlantic City, N.J., as Claims Officer and much of his time is devoted to legal assistance. "Practically every returnee who has a taxable income has to file a return for the past three or four years," he states. "As a result, taxation constitutes by far the greatest number of cases. There is enough variety in other types of cases, however, to make the job very similar to conducting a general law practice."

21st OFFICER CLASS

Some of the assignments of members of the class follow: Capt. Robert G. Polack to Headquarters, IARTC, Camp Shelby, Miss.; Maj. William M. Ruddock and Maj. Burton F. Ellis to JAGRP, Headquarters, San Francisco Port of Embarkation; 1st Lt. Nicholas V. Midey to JAGRP, Headquarters, Second Service Command; Capt. William S. Myers to Headquarters, IRTC, Camp Rucker, Ala.; 1st Lt. Herbert F. Small to JAGRP, Headquarters, Third Service Command, with station at Holabird Signal Depot; 1st Lt. Robert E. Byrne to JAGRP, Headquarters, Sixth Service Command; Maj. Matthew J. Faerber to JAGRP, Headquarters, Second Service Command.

Capt. Jerome S. Zurkow is assigned to the office of the staff JA, Headquarters, Eighth Service Command.

1st Lt. Richard S. Buckley writes that he has returned temporarily to Fort Douglas, Utah, and is "doing clemency work with regard to general prisoners."

Capt. William S. Myers writes from his station at Headquarters, IRTC, Camp Rucker, Ala., where he is the staff JA. The installation is brand new and since he arrived six weeks after activation, he says that he is "starting not at scratch, but six weeks behind scratch."

Maj. Thomas A. Ballantine has reported to Headquarters, ATSC, Wright Field, Ohio, and has been assigned to the Administrative Branch, Contract Section.

1st Lt. Nicholas V. Midey is assigned to JAGRP, Headquarters, Second Service Command, Governors Island, N.Y.

1st OC

Lt. Charles A. Riedl writes that he has finally crossed the Mediterranean from Africa to Italy where he is in the JA Section of the 5th Army. He was 17 months in Africa. He says: "Invariably, wherever I move, JAG officers get together to talk of the days spent at Ann Arbor."

Capt. Leo Bruck writes from the Persian Gulf Command JA Section that his time is "pretty well occupied," being Executive Officer, Assistant Staff JA, Member of Foreign Claims Commission No. 21, Legal Assistance Officer of the Command, Naturalization Officer, Soldier Voting Officer and Law Member of the GCM.

Capt. Joseph Bigel is now on his way to an overseas assignment.

John A. O'Donnell, Jr., is reported to be the first in his class on duty in this country to receive a promotion to major. Capt. Leslie L. Anderson writes that he assisted Maj. O'Donnell in pinning the new insignia on his uniform on 14 May at the Pentagon where Maj. O'Donnell is assigned to the Industrial Personnel Division, Headquarters, ASF.

The grapevine tells us that Capt. Neil B. Hayes was recently married.

Capt. George L. Wideman writes from the Philippines where he is Staff JA for V Air Service Area Command. He says that he is unable to claim experiences such as were published in past issues of THE ADVOCATE telling of hair raising experiences and hardships endured in New Guinea and other tropical islands, but that he has the happy distinction of being the initial OCS graduate in the Southwest Pacific. From November 1943 until February 1944 he served under Col. Maxey where he served with alumni: Lt. Col. Al Kuhfeld (10th Officer Cl.), Capt. Alonzo Jeffress (11th Officer Cl.), Capt. William B. Metheny (13th Officer Cl.), and Capt. John G. Starr (2nd OC).

When Capt. Wideman took up his assignment with his present headquarters it was located in Townsville, Australia. The type of work was similar to that of a general law practice, and included representing members of the command in the Australian civil courts, handling civil affairs and military justice cases.

He reports renewing friendships with Col. Kuhfeld, Capt. Metheny, and Capt. Jeffress in the Philippines. Manila, he says, is almost completely destroyed with few large buildings fit for occupancy.

Capt. William R. Vance is on duty in the Communications Zone, ETO.

Capt. Anthony Julian, former member of the staff and faculty, who has been on duty at BOJAG, ETO for more than a year, is now a member of Board of Review No. 3 in that office.

2nd OC

Capt. Joseph H. Edgar, Assistant Chief, Personnel Branch, Claims Division, JAGO, was recently on the west coast to interview military personnel released from Japanese prison camps in the Philippines in regard to personnel claims.

1st Lt. Glenn S. Allen, Jr., writes from "somewhere in Europe" that he lunched and spent the afternoon with his classmate Lt. J. Herbert Burke, assistant staff JA of an infantry division. "He is something of a JA novelty," says Lt. Allen, "being one of the few JAs to receive a Purple Heart. It was the Luftwaffe. We had a grand time together and ate from the sterling silver acquired from Fritz Von Papen. Dudley Porter, another assistant staff JA for an infantry division, wrote recently of his 30-day assignment to Army to act as Army TJA. With him was 'Tuffy' Walsh, another assistant staff JA. He too was on a similar assignment. From Normandy base sector came a letter from Lt. Herman M. Back who had just been switched over from claims to sector judge advocate work, and was pleased about it. Capt. Don Graham has been doing a splendid job as assistant to Gen. Betts. I saw him in London and would have seen him in Paris last November but for his temporary duty instructing in international law in England. Lt. Malcolm E. Stewart (3rd OC) came down and took my office when we moved from near Brittany."

Capt. Bill Sporborg writes from "somewhere in the Philippines" where he is assistant staff JA with an infantry division. He says that the division finally has a break as far as living conditions are concerned. "We are in open country where you can actually see grass growing and no jungle! You can easily walk two yards without running into a tree! There is really some civilization around including macadam and even one concrete road. As usual, we are in the rear echelon, but unaccountably this has been always located ahead of the so-called forward CP. We have moved so much that the boys can pack up and set up again in nothing flat. Believe it or not, our office is set up in a building—a stone monastery with a galvanized tin roof, now full of shrapnel holes. The officers' quarters are in houses with wooden floors and sides, although there are large open window spaces."

Capt. Charles Livingston, Jr., reports the following intelligence: Winthrop Saltonstall Dakin and himself were promoted to captain on 12 February. Members of the class still on duty in the JAGO include Wessellink in the Contracts Division, Contract Law Branch; Garland in the Tax Division; Edgar in the Claims Division; Dakin in International Law Division; and Livingston in Bond Branch, Contracts Division.

5th OC

1st Lt. Samuel W. Block writes from Headquarters, ATSC, Wright Field, Ohio, where he is assigned to the Organization and Procedures Branch, Control Section, Procurement Division, that his classmates Lts. Bob Eno and Bliss Ausnes "are still holding up the reputation of the 5th OC and you can take that any way you want to."

John P. Stafford, Jr., writes from Washington: "Sinclair, Rodgers, and myself are still in the Justice Division. Bistline, Fable, Gardner, Harris, Upton, and myself have been promoted to Captain. Olin B. Scott was alerted recently for an overseas trip and I have not heard from him since. Pat Ford went over to ETO on January and have heard he is in Paris, as is also Charlie Sapp (4th OC). Harding is with CWS legal department at Gravelly Point, Graham is with Patents here, and Springarm is over at The Pentagon. The last I heard of McCrohan he was doing very well as legal assistance officer in the First Service Command."

These are busy days in New Caledonia for the Judge Advocate Section writes 2nd Lt. Walden Stout. In addition to the claims work to which he has been assigned since arrival a few months ago, he has now been recruited for Military Justice—and "here is a laugh," he says—including acting as law member on a GCM.

Although he is the lowest ranking member of the court, which consists of two lieutenant colonels, two majors, three captains, and a first lieutenant, Lt. Stout states that his lack of rank so far has caused no embarrassment or difficulty.

1st Lt. Ben A. Engel writes from the U.S. Engineer's Office, Norfolk, Va. "My work in the Norfolk District of the U.S. Engineers is exceedingly interesting and is of ever increasing volume. I have had occasion to handle almost every conceivable type of contractual and legal problem. On at least 90 per cent of the problems I have found that knowledge and training gained in the JAGS covered the situation completely. The use of that knowledge, a small amount of common sense, and a judicious search for pertinent laws, cases and regulations has enabled the expeditious handling of everything which has arisen without too much difficulty. I am of the firm opinion that the training received at JAGS is the finest obtainable anywhere in the world."

1st Lt. Bert B. Barefoot sends news of a few of his classmates. He says: "Bossmeier is assistant staff JA at Headquarters, Eastern Flying Training Command, Maxwell Field, Ala. I hold the same title at Headquarters, AAF Training Command, Fort Worth, Tex., and Briggs holds the same title at Headquarters, Air Transport Command, Ferrying Division, Cincinnati, Ohio. Leftwich is in the office of the District Engineer at Los Angeles, Calif., and Butler is in the same office at Seattle, Wash. Ty Williams is in the same office in Denver, Colo. Of all the members of the class the latter three are the only ones I have seen since graduation."

6th OC

2nd Lt. George W. Garnier reports that he is now base claims officer as well as base JA at Grenier Field, Manchester, N.H. He has two prize problems which have been causing him worry. One has to do with the timber in the White mountains felled by crashing airplanes. The State is primarily concerned with the removal of the fire hazard resulting from the dead timber, and would like to make a claim for the cost of clearing the land rather than the value of the timber. The other involves the application of the state motor vehicle responsibility law to Army and War Department civilian personnel.

1st Lt. Robert R. Jones writes from Brisbane—he is permitted to state his location—that he has been doing claims work with Claims Service, and that some of the situations involved are even more complicated than those "dreamed up at the School."

1st Lt. Charles W. Leavy is stationed at Western District, ATSC, 3636 Beverly Blvd., Los Angeles, Calif.

Capt. Stanley Waxberg sends news of classmates on duty in and around the Military District of Washington. He says: "I thought you would be interested in the news from the fox holes on Constitution Avenue where stands the ancient, yet revered, Munitions Building, dedicated to the JAGO. The 6th OC still has a representative percentage of graduates on duty here. For example, Firestone, Weintraub and myself acted as a self-designated dinner committee not too long ago, and much to our surprise, the following lads showed up at the Broadmoor: Yeakley, Knipmeyer, Wrightson, Hurley, Burkhalter, Hecht, Alsup, Appel, Nurick, Williams, Stahl, Mathews, Wolf, Gerstein, Marcellino, Hooper, Sims, Miley, Stroud and Cook. A check-up revealed the following stationed in or around the MDW who could only join us in spirit: Folsom, Auchincloss, Merrill, Hays, Huber, H. Dorsey, Keeland, Winger and McGlone. At the last round up only Hooper had gone from here to C & GSS."

Capt. Waxberg says that he has just about recuperated from the operation that sent him to Florida for a rest in January.

Lt. Bob Bastion writes from the Armored Center, Fort Knox, Ky., that military justice work has slumped despite an increase in personnel in the jurisdiction. He says: "I see Hank McDonald in Louisville fairly often when he isn't running all over the country on some engineering contract. Also heard from Bob Nolan who is with Headquarters, Third Air Force, Tampa, Fla., and who says his principal duty is serving as a recorder for a central flying evaluation board which suspends fliers for violations."

1st Lt. Harley A. Lanning writes that Lt. William Green (5th OC) and himself have recently arrived at their new station in the Philippines where they are assigned to the General Engineer District. He says that being with an engineer outfit is known to have its advantages and that his is no exception insofar as offices and quarters are concerned. "We are quite comfortably quartered, having running water available for showers and toilet facilities, and believe me, that adds to one's comfort in this hot climate."

Although the boat trip was a long one, the monotony was relieved somewhat for Lts. Lanning and Green by their assignment as defense counsel and trial judge advocate respectively for a special court. The result was much in Green's favor, eight to one.

Other JAGs whom Lt. Lanning has run across in Manila include Lts. Robert Jones, Yost, Phelps, Worrell, and Whitsett of his class, all of whom are engaged in claims work of one sort or another; also Lt. Gregory (6th OC) and Capt. W. Palmer Van Arsdale (14th Officer Cl.). Lt. Lanning expects that work will increase in his district and that contracts, claims, legal assistance problems and the like will predominate.

7th OC

1st Lt. George A. Chadwick, Jr., reports a new address. He is assigned to the Office of Legislative Services, Headquarters AAF, The Pentagon.

2nd Lt. William C. Wells, Jr., took the time while home in Jackson, Miss., to write that he is on overseas leave, and expects to go somewhere from the West Coast in the near future.

2nd Lt. Alan R. Siverling has been transferred from Fort Knox, Ky., to become Post JA at Camp Atterbury, Ind., replacing Maj. Earl V. Cates (4th Officer Cl.)

2nd Lt. Charles E. Chace reports that his work is sufficiently varied in nature to keep it from ever getting dull at the Army Ground and Service Forces Redistribution Station, Hot Springs National Park, Ark. The work consists mainly of legal assistance but military justice, affairs and claims come in for a fair share of attention.

2nd Lt. Samuel L. Cederborg sends word of the officers on duty in the JA office at AGF Replacement Depot No. 2, Fort Ord, Calif., his new station. It is an all school office and has as its boss Maj. John M. Smith (2nd Officer Cl.) as Staff JA. Maj. Smith has recently returned to the United States after more than two years' service in the European Theatre, during which time he served in various JA capacities. Other members of the staff include Capt. Charles S. Buck (1st OC), 1st Lts. Alvin W. Peck and Fred M. Black (3rd OC), and 2nd Lt. Lorton R. Carson (8th OC) reported at the office for duty last week, arriving from Fort Douglas, Utah, where he spent about three months. Lt. Black is reportedly about to leave for Camp Beale, Calif., and later on an overseas assignment.

Lt. Cederborg reports that he has been extremely active since reporting to the office early in February. He says that "Military Justice is streamlined and expeditious in this depot to care for the unique problems arising here and the tremendous volume in court-martial being done. Two depot special courts-martial are in session daily. I am the TJA of one of these courts, and since my arrival have tried over 140 cases myself. Of course, most of these cases were AWOL, with a variety of sundry other types of cases usual among Army personnel. I am also defense counsel of a GCM with several cases pending for trial. Obviously time is not heavy on our hands." Lt. Cederborg was previously assigned to the Prisoner of War Camp, Papago Park, Ariz.

Lt. Frederick Hillyer is stationed in the JA Office at the Tank Destroyer Center, North Camp Hood, Tex., and Lt. Keith Stahle is at Camp Roberts, Calif.

8th OC

1st Lt. John J. Adams has been transferred from his assignment in the Office of the Chief of Finance and is in the JA Section in the Seine Section, ETOUSA. He reports that there are a number of alumni in the section and that in doing his own work he leans heavily upon the pronouncements of Maj. Farr and Capt. Finger heard while at school. JAGS texts form the bulk of the library, he says.

1st Lt. Dwight R. Kinder has been transferred from the Base Legal Office at Godman Field, Ky, to Legal Boards and Claims Office, Freeman Field, Seymour, Ind.

9th OC

1st Lt. William J. Haft writes that he and Lt. John Lee are assigned to the Office of the Post JA at Camp Detrick, Frederick, Md., on temporary duty. Haft says that the very first day Lee was appointed DC on a SCM and that he was a member of the court. They are also summary court officers and getting a lot of experience in all problems of post JAs.

1st Lt. Louis Young says that he is at Fort George Meade, Md., having been farmed out to the Post JA for practical experience, although he is still in the Third Service Command Pool. It was from the same camp that exactly a year ago Lt. Young left for overseas as an infantry replacement fresh from basic training. He observes that it was a long way coming back and that he considers himself very fortunate. He adds that "no matter how anyone else may feel about the alleged pressure and tension there. I can honestly say that my days at the JAG School were the high point of my Army career."

1st Lt. William S. Yard is located at Headquarters, Second Army, in the Office of the Staff JA and 1st Lt. James H. Mathias is on duty at the JAGO.

1st Lt. Horace G. Geer is on duty at the JAGO, Military Affairs Division.

1st Lt. Milton Sandberg is assistant staff JA at Camp Pickett, Va.

1st Lt. John C. Baumann has been transferred from Headquarters, Third Service Command, to the Legal and Legislative Branch, Military Personnel Division, Headquarters, ASF. He says that the bulk of the work consists of the preparation of War Department reports on pending legislation, with some drafting of proposed legislation and miscellaneous legal work. He reports that most of the 9th OC assigned to Washington are on duty in Munitions and he has seen little of them. Lts. Numa Smith and Bob Stanton are in The Pentagon.

2nd Lt. David S. Gifford has been appointed Post JA for McGuire General Hospital, Richmond, Va. He says that most of his work thus far has consisted of legal assistance cases involving domestic relations, and that there may be some court-martial and claims work also.

2nd Lt. Luther C. Braham writes that he is Post JA for Deshon General Hospital, Butler, Penna.

1st Lt. Edwin K. Resseger reports that he is on duty in the Contracts Law Branch, JAGO.

2nd Lt. Edmond H. Barry is on duty at Headquarters, Antiaircraft Command, Fort Bliss, Tex.

Lt. David F. Matchett, Jr., writes from Chicago Ordnance District that he has been paced in the Legal Division of Production Services. Most of his work to date has been in connection with property disposal and particularly with termination inventories. He has attended board meetings as an observer and is still reading JTRs and POIs. Other JAGS alumni on duty there are 1st Lts. Lawrence A. Ludens (4th OC) and George K. Ray (7th OC) and 2nd Lts. Robert H. Dietrich (5th OC) and Harry Polikoff (7th OC).

1st Lt. James E. Sapp, Jr., has arrived at Wright Field, Ohio, after a stopover at the Third Service Command. He is assigned to the Contracts and Licenses Branch, Patents and Royalties Section, Office of the JA.

2nd Lt. Charles E. Gant is stationed at Fort Monmouth, N.J., having been transferred from Headquarters Third Service Command.

2nd Lt. Martin W. Bancroft has been assigned to 3612 SCU, Gardiner General Hospital, Chicago, Ill. Lt. Bancroft was formerly assigned to JAGRP, Headquarters Second Service Command.

1st Lt. Louis Young has been transferred from Camp Meade, Md., to Special Services Division, ASF, New York, N.Y. 2nd Lt. Jerome T. Stewart received the same assignment, being transferred to New York from the JAGO.

1st Lt. Bruce M. Smith says he has had a change of assignment from Headquarters Fourth Army to 5th Headquarters, Special Troops, Camp Swift, Tex.

1st Lt. George T. Calder, formerly at Headquarters First Service Command, is now at Holabird Signal Depot assigned to JAGRP.

1st Lt. Gerard F. Treanor, formerly assigned to JAGRP, Third Service Command, is now with the Renegotiation Division, Headquarters, ASF.

1st Lt. Stanley Corbett writes that he is on temporary duty in the JA Office at Fort Sill, Okla., having been sent there from Headquarters, Eighth Service Command. He reports the present locations of classmates originally assigned with him, saying that the movement out of Dallas reminded him of the story of the man who vaulted onto his horse and rode madly off in all directions. Lt. Downie is at Camp Robinson, Lt. Maniscalco at Fort Bliss, Tex., Lt. Scott at Camp Chaffee, Ark., Lt. Ralph Smith at Camp Bowie, Tex., and Lt. Stine at Fort Sam Houston, Tex.

2nd Lt. Richard J. Orff reports that he is at Camp Ellis, Ill., spending most of his time as assistant to the Legal Assistance Officer.

1st Lt. Herbert F. Fuller writes that he has been permanently assigned to Headquarters, Fourth Service Command. As to the other officers who reported with him, he makes this report: Lt. Zebulon V. Johnson has been assigned to Camp McCain, Miss., Lt. Edwin M. Clarke to Camp Stewart, Ga., and Lt. Jack (lost half track) Wilson is still in Atlanta—at service command headquarters.

1st Lt. John W. MacLeod writes from Camp Edwards, Mass., that he and 1st Lt. James Mathias were received with open arms upon arrival by JAGS alumni there, 1st Lt. Willis Brown (2nd OC), 1st Lt. Robert O'Brien (4th OC), and 2nd Lt. Raymond Mino (8th OC). Lt. Mathias after five days was shifted to International Law Division, JAGO.

Lt. MacLeod is TJA for one court and defense counsel for another, "leading a double life, for which JAGS furnished excellent training. The one great problem is to keep from arguing against myself. It is similar to the problem of determining whether or not to give the approved or correct answer on a writ—that is, on the inevitable number of 'moot questions.' Of course, after the critique we realized that they were not moot at all. Those 17 weeks at Ann Arbor will always be memorable ones for me."

Lt. Elmer J. Bennett is on duty with JAGRP, Second Service Command.

2nd Lt. Robert E. Ford writes from JAGRP, Ninth Service Command, that 1st Lt. Preston Gunther is in the Military Affairs Section there, 1st Lt. Sherman Wilkie and 2nd Lt. Clifford Ashton are in Claims, and that 2nd Lt. John Lally and himself are in Military Justice.

Lt. Charles E. Gant writes that he is now in the office of the Post JA at Fort Monmouth, N.J., having spent two months at Baltimore, Md., after graduation. At his present post, "the country club of the Army," he is doing everything that a JA can be called upon to do. As he is a New Jersey attorney, an abundance of legal assistance matters flow his way, including rent control matters now particularly acute because of the heavy influx of vacationists to the Jersey shore in the spring and summer and the natural inclination of landlords to get heavy rentals even at the expense of ousting military personnel.

10th OC

2nd Lt. Perrin H. Lowrey writes from Washington about the activities of some of his classmates there. As to himself and others, he says: "Presently I am racing rats for the Military Affairs Division. It is not an uninteresting assignment occupation, with the dangers of being reduced to the ranks alleviated. 10th OC assignments here include Nisen to Claims, Sampsell to Contracts, Tiffany to War Crimes, Barrett to International Law, Bosworth to the office of the SJA for the Military District of Washington, and Musgrave to International Division, ASF.

Lt. Abraham Fishman is on temporary duty at Wakeman General and Convalescent Hospital, Camp Atterbury, Ind.

1st Lt. Mark W. Bancroft is on duty at Gardiner General Hospital, Chicago, Ill., as post JA. He writes that work is quite diversified. "Claims, military justice, legal assistance, line of duty, and frequently some very interesting questions arise concerning military affairs. At the present time I am also conducting a series of orientation lectures on the Articles of War and military justice.

As a matter of interest anent the visit of the Latin-American officers were in Chicago prior to coming to Ann Arbor, Lt. Bancroft notes that Col. Gregorio Martin, JAGD, Costa Rican Army, was a patient at the hospital, and displayed mimeographed material which had been provided him to supplement the scheduled talks and lectures. One of his treasured documents, Lt. Bancroft says, was a full and complete record in Spanish of the GCM of Pvt. Lennie O. Bark. He remarks that Pvt. Bark "should earn a full pardon because of distinguished and learned service rendered to The Judge Advocate General's Department."

Lt. David T. Sweet is assigned to the San Francisco Port of Embarkation, Fort Mason, Calif.

1st Lt. Arthur E. Farmer writes from JAGRP, Fourth Service Command, that he's the last of his classmates originally assigned there to remain, as 2nd Lt. Hugh Merrill is at Camp Rucker, Ala., 2nd Lt. Heman Clark is at Camp Blanding, Fla., and 1st Lt. Bob Giles has been given warning that he is slated for a "Reclamation Center" nearby.

2nd Lt. Charles M. Menapace is assigned to JAGRP, Headquarters, Second Service Command, N.Y.

1st Lt. Charles Pickett writes from the GCM unit at Fort Sheridan, Ill., that he was defense counsel of the GCM temporarily for two trials and that rumor says that he is to be sent to ATSC Headquarters at Oklahoma City, Okla. He has been hopping ever since leaving Ann Arbor; half an hour after reporting for duty at Chicago, they "whisked" him off to Marquette, Mich., on an investigational assignment, and after a couple of days in Chicago, off he went to Sheridan. 2nd Lt. Hugh Savage of his class is also in the Chicago office, and from earlier classes Lt. Joseph E. Tinkham (9th OC) who is bound for somewhere beyond the bounding main; 1st Lts. Byran H. Jacques (18th Officer Cl.), Charles G. Bromberger (20th Officer Cl.), and John M. Pikkaart (1st OC).

At Fort Sheridan among the alumni Lt. Pickett met were Maj. William Glassner (5th Officer Cl.) who is the TJA, his assistant 1st Lt. Joseph Zwerdling of Ann Arbor and the 9th OC, 2nd Lt. James C. Ryan (3rd OC), assistant defense counsel; and 1st Lt. Ralph Feigelson (18th Officer Cl.), who doubles in brass as post claims officer and investigating officer.

1st Lt. Myron N. Lane writes from Headquarters, First Service Command, where he is on duty in the JA office that Lt. Edward M. Weidner and himself are working on claims and legal assistance. Lt. Tom Cannon has been assigned to Fort Devens, Mass., and Lts. Lynn Gillard and Philip Faherty to Camp Edwards, Mass. "Lt. Gillard also found his promotion awaiting him here on first reporting," says Lt. Lane.

2nd Lt. Frank Manns is assigned to JAGRP, Headquarters, Seventh Service Command, Omaha, Neb.

1st Lt. David S. Sampsell has been transferred to the Legal Branch, Director of Materiel, Headquarters, ASF.

Recent Graduates FROM THE JAG SCHOOL

TWENTY-FIRST OFFICER CLASS (Graduated 17 March 1945)

Ballentine, Thomas A, Major, AC
 Barnes, Vail G., 1st Lt., JAGD
 Buckley, Richard S., 1st Lt., JAGD
 Byrne, Robert E., 1st Lt., JAGD
 Dyer, David W., Major, JAGD
 Ellis, Burton F., Major, JAGD
 Faerber, Matthew J., Major, JAGD
 Henriod, Frederic H., Capt., JAGD
 Hitchcock, John G., Capt., JAGD
 Hudspeth, John H., 1st Lt., JAGD
 Jones, Robert Y., Jr., 1st Lt., JAGD
 Lewis, Ralph E., Major, JAGD
 Loofbourrow, Wade H., Major, AC
 McChesney, Lindsley, Major, AC
 McClosky, Robert L., 1st Lt., AC
 Merriam, John D., Capt., JAGD
 Meyer, Maurice J., Col., JAGD
 Midey, Nicholas V., 1st Lt., JAGD
 Miller, William S., 2nd Lt., QMC
 Myers, William S., Capt., JAGD
 Parlato, Edward J., Lt. Col., CE
 Polack, Robert G., Capt., AC
 Renfro, Robert R., Major, AC
 Ruddock, William M., Major, Inf
 Ryan, Tice F., Jr., 1st Lt., AC
 Shocknessy, James W., Major, AC
 Small, Herbert F., 1st Lt., JAGD
 Wittman, Sherwin V., 1st Lt., JAGD
 Zurkow, Jerome S., Capt., JAGD

TWENTY-SECOND OFFICER CLASS (Graduated 19 May 1945)

Bailey, Daniel M., Maj., JAGD
 Clark, Edward B., 1st Lt., JAGD
 Cline, Virgil P., Maj., JAGD
 Dorbandt, James C., Lt. Col., JAGD
 Drummond, Fred W., Capt., CE
 Fegan, Thomas H., Capt., AC
 Flansburg, Charles H., 1st Lt., JAGD
 Flaum, Joseph D., Capt., TC
 Fox, Henry H., Jr., Capt., JAGD
 Gibson, Rankin M., 2nd Lt., AC
 Hancock, Parker D., Capt., JAGD
 Henderson, Laurens L., Capt., JAGD
 Hutton, John H., 1st Lt., JAGD
 Ingram, William C., Lt. Col., AC
 Klein, David, 1st Lt., CAC
 Magers, John E., Jr., 1st Lt., JAGD
 Martin, Ray O., Jr., Maj., AC
 Mickel, George E., Lt. Col., AC
 Oliver, Jack L., Capt., JAGD
 Rice, Greek P., Capt., JAGD
 Sanders, Joseph W., 1st Lt., JAGD
 Smith, Wesley A., Maj., AC
 Taylor, George E., Maj., JAGD
 Tetlow, Edwin B., Maj., JAGD
 Teton, Alfred B., Capt., JAGD
 Thompson, Horace B., Lt. Col., FA
 Vogt, William G., Capt.
 White, Frank G., Maj., JAGD
 Wolff, William F., Jr., 1st Lt., JAGD

TENTH OFFICER CANDIDATE CLASS (Graduated 17 March 1945)

Ambrose, William L., Jr.
 Barrett, Roger W.
 Bosworth, Frank M., Jr.
 Brink, John A.
 Cannon, Thomas A.
 Clark, Heman R.
 Cumming, Kenneth G.
 Day, David I., Jr.
 Ellis, Albert J.
 Faherty, Philip J., Jr.
 Farmer, Arthur E.
 Fishman, Abraham
 Fitzgerald, William H.
 Giles, Robert C., Jr.
 Gillard, Lynn J.

Hildreth, Pierson R.
 Howard, George W., Jr.
 Keith, Roger Q.
 Kenyon, Edward H.
 Lane, Myron N.
 Lawton, Charles T.
 Lowrey, Perrin H.
 McKelvey, Robert F.
 McMahon, James P.
 Manns, Frank L.
 Menapace, Charles M.
 Merrill, Hugh D., Jr.
 Musgrave, Edgar C.
 Nagle, Smyser F.
 Nisen, Charles M.

Pickett, Charles
 Pontius, Albert R.
 Ronin, Harold F.
 Rosean, Max
 Sampsell, David S.
 Savage, Hugh R.
 Seale, Thomas F., Sr.
 Siegel, Melvin H.
 Sweet, David T.
 Terry, Rensselaer G., Jr.
 Tiffany, Wallace N.
 Weidner, Edward M.
 Willison, Robert K.
 Wilson, William C.
 Yturri, Anthony

ELEVENTH OFFICER CANDIDATE CLASS (Graduated 19 May 1945)

Atneron, Henry V.
 Belt, Carl R.
 Bielby, Chester E.
 Blanckenburg, William L.
 Bowditch, Robert S.
 Boyle, James H.
 Cappell, Clarence A.
 Carmody, Joseph
 Clanton, Frederick A.
 Congdon, Harold K., Jr.
 Covert, Robert E.
 Dadd, Hayden H.
 Davis, Walter W.
 Epstein, Lee
 Fitzharris, James R.

Fogleman, John A.
 Goubeaux, Jerome H.
 Healey, James P., Jr.
 Henley, Earle B., Jr.
 Johnson, Preston K., Jr.
 Johnson, Richard S.
 Jones, Roderic M.
 Kamb, Boynton
 McHaney, Edwin L., Jr.
 McLane, Henry
 Marumoto, Masaji
 Miller, William E.
 Nahurski, Francis J.
 Nelson, Clayton L.
 Ris, William K.
 Robinson, Thomas A.

Sabin, Brainard S.
 Schrader, William H.
 Shannon, Dale E.
 Shepherd, Addison T.
 Shorten, Russell
 Shull, James M.
 Smith, James P.
 Strassner, Frank J., Jr.
 Thomas, Stanley
 Townsend, John F.
 Van Valkenburgh, Clinton D.
 Van Winkle, William M., Jr.
 Vaughan, Roland C.
 Wells, John K.
 Yager, Philip W.

The Branch Offices

THE BURMA-INDIA BRANCH OFFICE OF THE JUDGE ADVOCATE GENERAL—SALAAM SAHIBS

By MAJOR THOMAS G. JONES, JAGD

“CASTE” is peculiar to India. It determines a man's life from the accident of his birth and because of it he must eat, drink, dress, work and marry according to the custom of the community into which he was born. The word itself was introduced by the Portuguese and comes from the Latin “castus” which is related to purity, while the early Hindu term “varna” means “colour.” Despite the work of many scholars the real origins have never been discovered.

Hinduism itself traces caste to the laws of Manu, a code of priestly laws compiled about A.D. 200 and according to this the legendary origin is simple. All men were born of Brahma, the soul of the universe. The Brahman, or priest, issued from his head; the Kshatriya, or warrior, from his arms; the Vaisya, or husbandman and trader, from his thighs. The fourth great division, the Sudras, whose occupations were purely menial, and who were not permitted to attend the sacrifices or reading of the Veda, came from his feet, but many of them in time, with the original inhabitants of the land, came to be regarded more as the dust under his feet, without caste at all, or outcaste.

Scientists have advanced many theories, some as strange as the Manu code, to account for the institution, but none has gained complete authority. There are three things certain however about the origin of the system: (I) it was designed to maintain the status of the priests, or Brahmans, above all the rest; (II) it was intended to preserve purity of blood, and be a barrier against mixed marriages; and (III) it was connected with occupations.

In fact of course there are countless subdivisions within and below the main castes. The priests themselves have many, the traders have occupational castes, and the census enumerates well over 2,000 minor castes. Many are occupational—writers, blacksmiths, herdsmen, etc.—while many more have been caused by one being split up through quarrels and claims to superiority. Occasionally a new occupation provided a new caste, as for instance when in one city taxi drivers agitated to be regarded as in a higher caste than mere bus drivers!

There are certain institutions connected with caste

that must be mentioned. In the main they are connected with food and marriage. A man may not eat, or accept drink, from a lower caste than his own, or it is polluted. This has endless ramifications. Nor may a man marry except according to certain laws. For instance he may take a wife from a lower caste but he may neither give his daughter to a lower caste in marriage nor marry himself into a higher one.

Everything varies when the States are thought of. Area—some are over 80,000 square miles, such as Hyderabad and Kashmir, and some no more than 10; population—it may be as high as twelve or fourteen million or as low as 50; wealth—the revenue of Hyderabad is £7,000,000 while another may not have £20 a year. In the same way they vary in origin. Some rulers are survivals of land-owning families, and can trace back their descent to twenty or more generations of rulers; others are the remains of wide-spread empires, now dwindled down to a few miles of territory; yet others are the grants or “grabbed” lands of generals who rose to power at the break-up of the Moghul Empire, while some are of much more recent origin than the British power.

There are vast differences, too, in the cultural and economic development of the States. Some are still despotically ruled, and the people have little chance to rise to economic sufficiency; others, like Mysore and Baroda, are in the very vanguard of Indian development, leading British India in schemes for the amelioration of the peasantry, the standard of literacy and education or industrial development.

In number there are about 570 states, of whose princes 149, the leading ones in wealth, power, or service to the Empire, are entitled to salutes of guns. Five—Hyderabad, Mysore, Baroda, Kashmir and Gwalior—have the maximum number, twenty-one guns. More than fifty of the leading rulers have the title of “His Highness” and premier ruler, the Nizam of Hyderabad, is entitled “His Exalted Highness.” The Indian titles of some of the rulers run into several lines. The Jam Sahib of Newanagar, the Wali of Swat, the Maharajah of Bastar, the Maharajah of Cutch are a few of the resounding titles.

On duty in the Branch Office of The Judge Advocate General, Burma India Theater are: Front, left to right: Major Thomas G. Jones, Mrs. Ann Tanken, Lt. Col. John G. O'Brien, Colonel William J. Bacon, Lt. Col. Itimous T. Valentine, Miss Dee Atkinson, and Major John F. Fontron. Rear, left to right: S/Sgt. Robert E. Chial, Sgt. George E. Milham, 1st Lt. Buster Cole, Major Ralph W. Gardner, Captain Robert C. Van Ness, and Sgt. Morton Zuckerman.

Photo by U. S. Army Signal Corps



OUR Mail Pouch

If you wish to write to a friend in the Judge Advocate General's Department and do not know the address of your friend then do not hesitate to address the mail to him in care of Milton I. Baldinger, Executive Secretary, The Judge Advocates Association, National University Law School, Washington 5, D. C., and it will be promptly forwarded to him.



JAG GETS HIS JAP

Sirs:

Lieutenant James M. McDermott, JAGD, of Winfield, Kansas, Staff Judge Advocate of the VII Fighter Command, has earned personal distinction in combat as the first member of that headquarters to get his Jap. The story appears in the inclosed copy of BRIEF Magazine (published for men of the AAF, Pacific Ocean Areas):

WHO DAT SAYIN' WHO DAT?

Iwo Jima.—One of the shortest bits of battlefield dialogue in history departed from script in a 7th Fighter Command area here on Iwo one dark night, and as a result, a Jap ad libber became a dead duck.

Lt. James M. McDermott, JAGD, of Winfield, Kan., was standing guard near his tent, reflecting on the password, which was—not really—"Lovely Lady." A figure moved nearby. "Lovely," called the Lieutenant softly, and waited for the countersign. The figure froze, crouched low and hesitated. Finally it answered: "Come here."

That did it. Lt. McDermott opened fire. The infiltrating Jap fired back, then wound up and heaved a grenade which fell far short, exploding harmlessly. A moment later another grenade exploded. In the morning the Lieutenant discovered the second grenade was the one the Jap had saved for himself.

Further details of the incident have been supplied to us by a witness who was present. This witness stated that not only was Lieutenant McDermott the first member of the Fighter Command Headquarters to get his Jap but that when the Jap body was inspected by daylight on the morning following the incident it was discovered that a considerable number of the Lieutenant's shots had hit home.

Lieutenant James M. McDermott is a brother of Major Richard B. McDermott, JAGD, of Tulsa, Oklahoma. Brother Richard is a member of the staff of the Judge Advocate of the Fifteenth Air Force. His picture appeared in connection with an article which appeared in the December 1944 issue of the Judge Advocate Journal.

Knowing the modesty and fine personal characteristics of "Mac" I am confident that you would never receive this from him, and I doubt if he has ever told of the incident to any of his friends or family.

LEE G. BROWN,
Lt. Colonel, JAGD,
Hq, AAF, POA (Admin)

ANY QUESTIONS?

Sirs:

If you wish to add to your headaches but greatly increase the value of the Journal to us, I suggest that you open a Question and Answer Department. You might

find it desirable, at least at the start, to limit the questions to Military Justice matters. I know that Trial Judge Advocates, Law Members and Assistant Judge Advocates in the field have many questions that they dislike to take up in a formal way with the Military Justice Division, JAGO.

LEONARD W. M. ZINGLER,
Major, JAGD,
Asst. Judge Advocate,
Hq Second Air Force
Colorado Springs, Colorado

The JOURNAL agrees with Major Zingler and the Editors are willing to reach for the aspirin if reader response justifies such a department, so let's have your questions. They need not be limited to military justice.—Ed.

J.A. UNDER FIRE

Sirs:

"You might be interested to know that at least one of the judge advocate sections has suffered damage at the hands of the Germans. * * * The convoy in which our section was moving was brought under fire. The truck on which our equipment was loaded caught fire and was completely destroyed. We had not even a scrap of paper left. In addition to all of our files, equipment and books all of the personal equipment of the men in the section was destroyed. The Staff Sergeant became separated from other men in the truck and was taken prisoner. He was held only a matter of 10 or 12 hours when the enemy was forced to withdraw by troops sent to the area. We all feel we have had more of the fighting in the JA Section than we care to think about, but since no one was hurt we feel the experience turned out, in the end, better than we had the right to hope. At the moment we are engaged in trying to re-equip the section, and to reconstruct some records of trial by general court-martial which were destroyed.

BRUCE SHORTS, JR.,
Lt. Colonel, JAGD
Hq. 84th Inf. Div.

CRIME PREFERRED

Sirs:

Believing this to be a case of first impression and one of rather singular interest, your readers may be interested in the following incident.

One of our garrison prisoners, serving his third court-martial sentence, recently requested an interview with the Police and Prison Officer of this Command. This interview being duly granted, the prisoner stated that he would like to make application for a dishonorable discharge—his reasons, it was only a matter of time and he thought he might just as well "get his now." With admirable presence of mind, the Police and Prison Officer advised the applicant that he might have to take a little

"time" along with the discharge. Purely a matter of form, of course.

The usual S.O.P. prevailing, i.e., when in doubt call the JA, the problem now rests upon my desk. (We like to accommodate our guardhouse guests down here, if we can.)

A thorough search of the available authorities has failed to disclose the basis for substantially improving upon the advice of the Police and Prison Officer. I have suggested that we do prefer to have a crime committed. Just for the record, of course. Any suggestions your readers might have would be much appreciated.

ELY R. KATZ,
Lt. Col., JAGD
Command Judge Advocate
A.A.F.P.G. Command
Elgin Field, Florida

COMMAND FUNCTION

Sirs:

I notice in the September 1944 issue that Colonel Young was noted as having "the rare distinction of being the only officer in the Department to exercise command functions over a military installation and over troops other than the Department." It might be of interest to those who read the Journal to hear that the officer who is in charge of the Judge Advocate General division on this Post actually was appointed by the Headquarters of the Fifth Service Command as the officer in charge of a Service Unit prior to his coming to this Post. He was the Recorder of the Officers Reclassification Board at the Headquarters of the Fifth Service Command for some ten months or thereabouts, and during the latter part of that period was officially detailed as the Commanding Officer of the 1558th Service Unit, the Officers Reclassification Center for the Fifth Service Command located at Fort Hayes, Columbus, Ohio. This, of course, also gave him a similar distinction although the personnel under him only numbered perhaps the total of around 75 or 100 persons, ranging from full Colonels down to attached enlisted men and civilians, none of whom were members of our own department.

At this post we have had great variances of personnel subject to the court-martial jurisdiction of the post. In checking the records recently, I noticed that the estimated personnel subject to that jurisdiction during the first year of the general court-martial jurisdiction at the Post showed approximately 95,000, which included not only Army Service Forces and training units, but also Army Ground Forces, and Army Air Forces units. During that period we actually had approximately 18,000 men of the Air Corps under our jurisdiction. We understand that it was the only Post in the United States which exercised any general court-martial over any Air Corps units, after the time when the Air Corps took over its own general court-martial jurisdiction. The Ground Force units were attached by the Second Army to the Post for general court-martial jurisdiction during that same period. The Legal Assistance office served all of the units on the Post, including the two Corps Headquarters and the four divisions who were on the Post at various times. We processed over 6,000 income tax reports during the rush period in the spring of 1944.

While this Post is at the present moment on a stand-by basis, we have been chosen as a reprocessing center and expect to be very busy again in the near future. We do

not know, but we suspect that we are the only Post in the United States which has been designated to settle claims in more than one Service Command area; we have been designated for that purpose for both the Fifth and Fourth Service Commands, since our Post lies partly in each territorial jurisdiction, with the Camp Headquarters situated in the state of Kentucky and a considerable part of the reservation being situated in the state of Tennessee. We have the interesting situation, therefore, wherein all claims for accidents happening on the Post or outside of the Post, but happening in the state of Kentucky, are handled on behalf of the Fifth Service Command, while those accidents which occur outside of the Post in the state of Tennessee are handled for the Fourth Service Command. The Camp Post Office is in Kentucky, but the nearest civilian Post Office is in the nearby town of Clarksville, Tennessee, and all mail coming to our Post is routed through that Post Office, even though it is addressed to "Camp Campbell, Kentucky."

Our office has the proud boast that for the last two years it has never been reversed on a legal opinion, a Court-Martial case, or a Claim.

From the above remarks, you may see that our office will probably be able to say that it serves with several "firsts," or at least in several unusual situations.

FRED J. ROMANOFF, Corporal,
Hq. 1580th SCU, Sta. Comp.,
Camp Campbell, Kentucky
(Post Judge Advocate's Office)

Sirs:

I enjoy reading the Journal and I congratulate you on getting out such a splendid publication. It compares favorably with the best professional journals and is much better than most of them.

SAMUEL M. DRIVER,
Lt. Col., JAGD
Branch Office of TJAG, USAF, POA
APO 958, San Francisco, Calif.

To Lt. Colonel Driver and other readers who give the Journal a friendly pat as it goes into its second year of publication, thanks.—Ed.



Signal Corps Photo

Clarence C. Fenn, Judge Advocate of the Burma India Theater, has his Brigadier General stars pinned on by T/Sgt. John Derr and M/Sgt. John Delene, Chief Clerk of the Theater Judge Advocate's Office, following the news of the confirmation of the promotion.

THIRD ANNUAL CONFERENCE

(Continued from Page 54)

- Hanower, Leonard R., Lieutenant Colonel, JAGD, Hq. Eastern Defense Command, Governors Island, New York.
- Harmeling, Henry, Colonel, JAGD, Hq. First Air Force, Mitchel Field, New York.
- Hedrick, Lawrence H., Brigadier General, USA, The Air Judge Advocate, Hq. A.A.F., Washington, D.C.
- Hinman, Burritt H., Colonel, JAGD, Hq. A.A.F. Eastern Flying Training Command, Maxwell Field, Alabama.
- Honan, John J., Colonel, JAGD, Hq. Fourth Army, Fort Sam Houston, Texas.
- Hoover, Hubert D., Colonel, JAGD, Branch Office of The Judge Advocate General, Mediterranean Theater of Operations.
- Jones, John J., Lieutenant Colonel, JAGD, Hq. Fourth Service Command, Atlanta, Georgia.
- Jones, Paul S., Colonel, JAGD, Hq. Second Service Command, Governors Island, New York.
- Kane, Anthony, Lieutenant Colonel, JAGD, Office of The Judge Advocate General, Army Service Forces, Washington, D.C.
- Karr, Randolph, Major, JAGD, Office of The Judge Advocate General, Army Service Forces, Washington, D. C.
- King, Archibald, Colonel, JAGD, Office of The Judge Advocate General, Army Service Forces, Washington, D. C.
- Kunkel, Rudolph E., Colonel, JAGD, Office of The Judge Advocate General, Army Service Forces, Washington, D.C.
- Levitt, Arthur, Colonel, JAGD, Hq. New York Port of Embarkation, Brooklyn, New York.
- Lind, Herbert H., Major, JAGD, Hq. Fifth Service Command, Fort Hayes, Columbus, Ohio.
- Magnusen, Lewis C., Colonel, JAGD, Hq. A.A.F. Central Flying Training Command, Randolph Field, Texas.
- McElroy, Thomas K., Colonel, JAGD, Hq. Eighth Service Command, Dallas, Texas.
- O'Keefe, Desmond, Colonel, JAGD, Hq. Continental Air Forces, Bolling Field, Washington, D.C.
- Rand, Oscar R., Colonel, JAGD, Hq. Sixth Service Command, Chicago, Illinois.
- Rigsby, A. Wood, Lieutenant Colonel, JAGD, Hq. A.A.F. Personnel Distribution Command, Louisville, Kentucky.
- Rushton, Marion, Colonel, AGD, Office of The Adjutant General, Army Service Forces, Washington, D.C.
- Shaffer, Louis R., Colonel, JAGD, Hq. Boston Port of Embarkation, Boston, Massachusetts.
- Shaw, Frank E., Colonel, JAGD, Hq. Seventh Service Command, Omaha, Nebraska.
- Shaw, Franklin P., Colonel, JAGD, Hq. Air Technical Service Command, Wright Field, Dayton, Ohio.
- Tipps, Ira M., Lieutenant Colonel, JAGD, Hq. Third Air Force, Tampa, Florida.
- Van Borkum, Arnold J., Lieutenant Colonel, JAGD, Hq. Fort Belvoir, Virginia.
- Wearing, George R., Major, JAGD, Office of The Judge Advocate General, Army Service Forces, Washington, D.C.
- Weir, John M., Brigadier General, USA, Office of The Judge Advocate General, Army Service Forces, Washington, D.C.
- West, Charles W., Colonel, JAGD, United States Military Academy, West Point, New York.
- Westin, Harold L., Major, JAGD, Hq. Second Army, Memphis, Tennessee.
- White, Thomas J., Colonel, JAGD, Hq. Ninth Service Command, Fort Douglas, Utah.
- Wilkins, William J., Colonel, JAGD, Hq. Second Air Force, Colorado Springs, Colorado.
- Ziegler, Arthur N., Colonel, JAGD, Hq. San Francisco Port of Embarkation, Fort Mason, California.

A limited supply of reports of the conference is available. Requests may be addressed to The Judge Advocate General, U. S. Army, attention, Chief Publications Branch, Washington 25, D. C.

AIR JUDGE ADVOCATE'S OFFICE

(Continued from Page 47)

in Headquarters, Army Air Forces, or on duty in the vicinity of Washington, who desire advice on personal matters of a legal nature, such as income taxes, wills, and powers of attorney. During the first quarter of this year 5,871 items were handled, of which 3,407 were income tax matters. Consolidated quarterly reports of legal assistance activities which are received from the field show proportionately the same ratio of income tax matters. For the first quarter of 1945, 479,874 legal assistance items were handled in the Army Air Forces, of which 275,748 were tax matters. The most pressing problem for returnees is income taxes, and returns prepared for returnees have averaged four tax years each. Numerous rulings have been obtained from the Bureau of Internal Revenue concerning the interpretation of changes in the tax laws and regulations upon military personnel who have been overseas for a long period of time. A series of three articles prepared by the Legal Assistance Division and published in "Air Force," the official service journal of the Army Air Forces, on the subject of wills, income taxes, and benefits under the GI Bill of Rights, have received such favorable response that further articles of this nature are being prepared for early publication. All necessary legal services have been furnished to the National Association of Air Forces Women and the Army Air Forces Aid Society, and all legal matters were handled for the Army Air Forces show "Winged Victory."

It would be useless to enumerate to judge advocates the scope and variety of legal questions considered in the Military Affairs Division, as it functions in much the same way as all other military affairs divisions. Suffice it to say that a good percentage of the great mass of AAF regulations and directives are referred for examination and opinion prior to promulgation, and that questions unique to aviation such as flying status and flying pay compose many of the interesting and complex problems presented for solution.

It is hoped that this brief sketch will give all judge advocates a fuller understanding of the functions and activities of this office, and that all will avail themselves of its services.

MISSION OF ATC

(Continued from Page 48)

be found a competent legal branch of one of the Divisions, functioning the same as if it were in Division headquarters.

In some of these Divisions, the staffs operate in combat areas. The India-China Division has received a Distinguished Unit Citation for its extraordinary achievements under combat conditions.

Wherever they are, the officers of the Judge Advocate General's Department, and the Air Corps, in Air Transport Command, carry on their work in accordance with the high standards of the Judge Advocate General's Department.

LIST OF *Promotions*

IN THE JUDGE ADVOCATE GENERAL'S DEPARTMENT

★ ★ ★

16 February 1945 through 23 May 1945

★ ★ ★

LT. COL. TO COLONEL

Chavez, David, Jr.
Clarke, Harry E.
Daniels, Willis F.
Dominick, William A.
Duffy, Frank J.
Freitag, Mac Alan
Fitch, Hereford T.
Harn, Jerry A.
Hatcher, Herbert C.
Hill, John B.
Joseph, Robert E.
Levy, Edward A.
Mayhew, Donald P.
McElroy, Thomas K.
Miller, Reginald C.
Parsons, Harold K.
Partlow, William D., Jr.
Rigsby, A. Wood
Sands, Thomas E., Jr.
Shaffer, Louis R.
Spier, James E.
Van Nostrand, George C.

MAJOR TO LT. COL.

Albert, Carl B.
Allen, Durham E.
Beale, Edward B.
Behle, Calvin A.
Berry, Samuel H.
Bonpane, Blase A.
Boyle, Russell T.
Branigin, Roger D.
Butler, Byron N.
Carney, Thomas G.
Clausen, Henry C.
Connally, Ben C.
Crosland, Edward B. (GSC)
Daly, Edward F.
Eresch, Frank P.
Fitts, Osmer C.
Henderson, James E.
Hendren, John H., Jr.
Her, Martin J.
Ice, Clarence F.
Johnston, Joseph F.
Jonas, Charles R.
Kane, Andrew D.
Kane, Anthony
Katz, Ely R.
Kearney, Louis E.
King, John P.
Kuder, William B.
Langdell, Ralph E.
Long, Lawrence A.
Mast, Oscar P.
McCall, John C.
McDougall, Kenneth R.
McMahon, Gerald J.
Meritt, Meyer W.
Morse, Lewis W.
O'Connor, Jeremiah J.
Paine, Charles B.
Rhoades, Joseph R.
Rhodes, Thomas E.
Richman, Milton H.
Roberts, Raymond S.
Ross, James H.

Ryan, Robert H.
Sachse, Victor A.
Shanner, Charles T.
Sharood, Raymond P.
Shorts, Bruce, Jr.
Simms, John H.
Skinner, Ernest B.
Sylva, Edward N.
Tormoen, Clarence O.
Travis, James A.
Walsh, Francis P.
Warren, Charles B., Jr.
Warren, Jesse F., Jr.
Wilson, Robert W.

CAPTAIN TO MAJOR

Asch, William W.
Bailey, Daniel M.
Baird, Glenn E.
Banigan, George J.
Bell, Robert K.
Bland, Ray P.
Block, Clem H.
Bradford, Morris L.
Bradley, Jack W.
Brice, James P.
Clare, Robert L., Jr.
Cotter, John F.
Daly, Francis X.
Danielson, Lester A.
Davis, Earl A.
Davis, Herbert H.
Davis, Paul S.
Dewey, Benjamin H., Jr.
Dollahon, Willard E.
Donohue, Edgar A.
Edwon, Wendell T.
Elliott, Martin K.
Emery, Cecil K.
Emmons, Robert J.
Fairgrave, Denio J.
Fontron, John F.
Foster, Stanbery
Gardner, Ralph W.
Goff, John K.
Hamilton, Hanse H.
Hendrie, Jonathan A.
Henry, Frederick T.
Hickman, Donald D.
Irwin, Theodore K.
Laughlin, Boyd R.
Leist, Charles D.
Lindsay, Alexander H.
Marchetti, Augustus A.
Maynard, Copenitus B.
McElwee, William H.
Mitchell, Lansing L.
Moody, Leroy D.
Nash, John P.
O'Donnell, John A., Jr.
Pasley, Robert S.
Pinsky, Abraham
Radcliff, William D.
Reddy, John H.
Remick, Henry C.
Ritchie, Horace B., Jr.
Robinson, Joseph S.

Rood, James R.
Schwartz, George H.
Singley, James T.
Smith, Everett E.
Smith, Thomas C., Jr.
Sullivan, Harold J.
Taylor, George E.
Tinsley, William D.
Walley, William G., Jr.
Ward, Guy E.
Watt, Lloyd A.
Weber, Raymond C.
West, Willis A.

1st LT. TO CAPTAIN

Agnor, William H.
Allen, Charles W.
Allen, Glenn S., Jr.
Alsup, William W.
Anderson, David F.
Ansnes, Bliss
Auchincloss, John W.
Bernhardt, Walter M.
Bernstein, Henry, Jr.
Block, Samuel W.
Boggess, Ralph E.
Bruin, James J.
Burke, J. Herbert
Burkhalter, Fred O.
Burns, Luke A., Jr.
Byrnes, Kendal C.
Carney, Daniel F.
Clark, Edward B.
Cole, Buster
Craighill, James B.
Crimm, Reuben G.
Curran, Charles P.
Daniel, Marion P., Sr.
Danks, Raymond B.
Deakins, William D., Jr.
Driscoll, Paul J.
DuFlocq, Eugene W.
Durfee, Theodore B.
Eno, Lawrence R.
Epstein, Leon
Fair, Oscar M., Jr.
Firestone, Richard L.
Fitzgibbons, Leo E.
Frame, Thomas E.
Gerstein, Albert S.
Hall, Max D.
Hampton, Tudor W.
Harding, Robert J.
Harrell, Clyde P., Jr.
Hays, Donald C.
Hecht, David S.
Holesapple, Abbie Y.
Houston, Lawrence R.
Huber, Edward F.
Huffcut, William H.
Hunt, Lawrence W.
Hyman, Abraham S.
Jenkins, Thomas K.
Jones, Bryant W.
Jones, Preston W.
Johnston, David W.
Kearns, Lawrence M.

Kenline, Karl
 Klute, Harold F.
 Lonergan, James E.
 Magers, John E., Jr.
 Maher, James C.
 Malo, Fred A.
 Manning, Charles W.
 Marafioti, Leonard D.
 McCann, Charles B.
 McCuen, George M.
 McNab, Duncan S.
 McKeithen, Warren A. L.
 Merrell, Herman S.
 Michalski, Robert E.
 Miley, William H.
 Moffett, William S. Jr.
 Morony, Jean
 Morgan, Samuel
 Moser, Frank S.
 Needle, Joseph S.
 Nurick, Lester
 Nystrom, Carl G.
 Patterson, T. Glover
 Patton, James W., Jr.
 Pendergast, Robert L.
 Pfeiffer, Sydney S.
 Reel, Adolf F.
 Reynolds, Rufus W.
 Rodgers, William S., Jr.
 Rogers, Jack
 Rooney, William J.
 Ryan, Thomas M.
 Shaw, Prentice W.
 Shearer, David H.
 Sims, Walter H.
 Smith, Ben A., Jr.
 Somsen, Henry N., Jr.
 Sonneman, Robert C.
 Spingarn, Edwin E.
 Stoll, Norman A.
 Stroud, James S.
 Taylor, Charles H.
 Taylor, Edward R.
 Tindall, Charles S., Jr.
 Turnbull, John G.
 Ullman, Sidney
 Vance, William R.
 Walsh, John E.
 Watkins, Thadeus R.
 Waxberg, Stanley D.
 Weintraub, Joseph
 White, Lewis A.
 Williams, Wayne D.
 Wrightson, James O., Jr.
 Yeakley, Taylor B.

2nd LT. TO 1st LT.

Ackerman, William J.
 Ambrose, William L., Jr.
 Arthur, William R., Jr.
 Barrett, Roger W.
 Basch, Curtis
 Bossmeyer, Raymond F.
 Bosworth, Frank M., Jr.
 Brady, William W.
 Brink, John A.
 Bumgardner, Howard M.
 Byrne, Robert E.

Carmody, George E.
 Carroll, Charles J., Jr.
 Cash, Francis E.
 Cederborg, Samuel L.
 Chase, Harold H.
 Dietrich, Robert H.
 Finkbeiner, James V.
 Finnegan, Frank G.
 Fishman, Abraham
 Framer, Arthur E.
 Frey, John H.
 Gamble, William P.
 Giles, Robert C., Jr.
 Gillard, Lynn J.
 Gonderinger, Charles N.
 Gordon, William O.
 Henneberg, Carrol G.
 Hone, Robert E.
 Howard, George W., Jr.
 Hubbell, Ernest
 Hutcheson, Robert F.
 Johns, Courtney R.
 Kean, John V.
 Kennedy, Asa D., Jr.
 Kennelly, Arthur W.
 Kenyon, Edward H.
 Kilcullen, Richard
 Lane, Myron N.
 Levy, Leonard D.
 Martin, Richard M.
 Matthews, Thomas A.
 McClain, William A.
 McFate, William J.
 McGlone, Paul A.
 Miller, William S.
 Mino, Raymond J.
 Mole, A. Chalmers
 Moncure, William A.
 Murphy, James D.
 Nagle, Smyser F.
 Neaton, Frank P.
 Nolan, Robert J.
 Nisen, Charles M.
 O'Hare, Edmund
 O'Malley, Julian E.
 Parker, Hillyer S.
 Paul, Eris F.
 Pickett, Charles
 Pontius, Albert R.
 Quilty, Francis C.
 Ranallo, Joseph A.
 Richard, Graddy C.
 Roberts, Charles S.
 Sampsell, David S.
 Siegel, Melvin H.
 Smith, Robert T.
 Spear, Clay V.
 Stout, Walden
 Sweet, David T.
 Talbert, Eugene
 Terry, Rensselaer G., Jr.
 Tiffany, Wallace N.
 Wells, William C., Jr.
 Whalen, William L.
 Wilson, William C.
 Woosley, Louis W.
 Yturri, Anthony

MILITARY JUSTICE IN NORMANDY

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Advocate. The colonel considers the state of discipline within his command of prime importance. Not a single charge sheet is processed without his personal knowledge and approval. The Judge Advocates review the cases and make the recommendations orally. With his wealth of experience as a line officer, and as a former Staff Judge Advocate, it is a simple matter to dispose of half a dozen

cases in much less time than it would take to prepare the ordinary advice sheet.

Today, there is abundant compensation in the thought that these ideas were not only fruitful, but the natural animosity which exists in the army against lawyers has been overcome, and friends have been made who appreciate, although at first they could not understand, the sincere desire to help them in their military justice problems.